

**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of)	
Zito Mifflin County, LLC)	
)	Docket No. _____
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
And Request for Expedited)	
Consideration)	

**PETITION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER
AND
REQUEST FOR EXPEDITED CONSIDERATION**

Zito Mifflin County, LLC (“Zito” or the “Petitioner”), by undersigned counsel, respectfully petitions the Pennsylvania Public Utilities Commission (“Commission”) for designation as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e)(1)-(2) of the Communications Act of 1934, as amended (the “Act”), Federal Communications Commission (“FCC”) rules, 47 C.F.R. Part 54.101 *et seq.*, and 52 Pa. Code § 69.2501 (“Petition”). Zito seeks designation as an ETC for purposes of receiving support from the FCC’s Rural Digital Opportunity Fund (“RDOF”) in the locations in Pennsylvania for which it was awarded support in the FCC’s recently concluded RDOF Auction 904. The FCC requires that winning bidders obtain ETC designation in any areas for which they are awarded support and submit appropriate documentation of such ETC status to the FCC.

The Petitioner requests ETC designation throughout the Mifflin County, Pennsylvania RDOF census blocks that it was awarded RDOF support, as identified in Exhibit A.¹ The

¹ See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, AU Docket No. 20-34, WC Docket No. 19-126, Public Notice, DA 20-1442 (rel. Dec. 7, 2020) (“Auction 904 Results Notice”).

Petitioner satisfies all of the statutory and regulatory requirements for designation as an ETC in the requested designated service area. As explained herein, the public interest would be served by granting this Petition. Since the deadline for obtaining this designation is time sensitive, Zito requests that the Commission expeditiously approve this Petition for designation as an ETC. The Petitioner requests expedited treatment for this Petition to ensure that the designation is issued by June 7, 2021, as required by the FCC.

In support of this Petition, Zito states as follows:

I. Background

A. Petitioner Overview

Zito is a subsidiary of Zito West Holding, LLC, a Delaware limited liability company with its principal place of business at 102 South Main Street, Coudersport, PA 16915. The Petitioner is authorized to do business as foreign business corporation in Pennsylvania pursuant to 15 Pa. C.S. §4124. *See* Exhibit B. Zito West Holding, LLC is a communications company that provides broadband internet, video and digital phone service to numerous communities across Pennsylvania. The Petitioner's goal is to provide Pennsylvania customers with the best possible level of video, broadband, and voice services. Zito is committed to an ongoing culture of technological innovation, and as such, Zito is committed to delivering new and advanced services as they become available. With the grant of this Petition, Zito will continue to deliver on that promise. The RDOF support will allow Zito to build additional last mile connectivity in Pennsylvania, and thus, provide more high-capacity broadband and voice service to Pennsylvanians. As discussed herein, Zito meets all of the statutory and regulatory requirements for ETC designation under Section 214(e) of the Act. Granting this Petition will serve the public

interest by enabling Zito to deploy broadband and voice services to unserved areas in Pennsylvania and invest in facilities and equipment in the Commonwealth.

B. Rural Digital Opportunity Fund

On February 7, 2020, the FCC issued a Report and Order adopting the Rural Digital Opportunity Fund, in which service providers competed to receive up to \$20.4 billion to offer voice and broadband service in unserved high-cost areas. The RDOF program will disburse the funds over the course of 10 years, in two phases. In Phase I (Auction 904), the FCC will award up to \$16 billion in funding in census blocks that lack both fixed voice and 25/3 Mbps internet access services. In Phase II, it will award the remaining \$4.4 billion, or more, in those census blocks that it later determines are only partially-served with the requisite voice and broadband services.

The FCC's December 7, 2020 Auction 904 Results Notice announced that Zito was among the winners of the recently-concluded Auction 904.² Specifically, the FCC designated Zito as a winning bidder in census blocks in Mifflin County, Pennsylvania. *See* Exhibit A. In order for the Petitioner to receive the RDOF support that it has been awarded, it must demonstrate to the FCC that it has been designated as an ETC in the areas where it was the winning bidder. The FCC's deadline for submitting proof of the ETC designation is June 7, 2021. As a result, Zito respectfully requests that the Commission expeditiously grant this application and designate Zito as an ETC as requested herein.

C. Contact Information

All inquiries concerning this Petition should be made to:

Kevin L. Hall
Tucker Arensberg, P.C., Attorneys
2 Lemoyne Drive

² *See* Auction 904 Results Notice, Attachment A, page 30.

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Colin.higgin@zitomedia.com

II. Authority for Designation as an ETC

Title 47 U.S.C. § 214(e)(2) of the Act provides that a state commission shall upon request designate an eligible telecommunications carrier (ETC) for a service area designated by the state commission. Title 47 U.S.C. § 214(e)(1) provides that an ETC shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, in the service area for which the designation is received, offer the services that are supported by federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services, and shall advertise the availability of such services and their costs using media of general distribution.

The FCC has promulgated a list of the services or functionalities that shall be supported by federal universal service support mechanisms at 47 C.F.R. § 54.101.

The Commission's regulations provide that ETC petitions in the Commonwealth are to be evaluated under 47 U.S.C. § 214(e) and the relevant rules and orders of the FCC. Further, the Commission provided that petitions for ETC designation that seek low income support from Lifeline and Link-Up America programs should satisfy the minimum standards established in 66 Pa. C.S. § 3019(f), comply with the Commission's order at *In Re: Lifeline and Link-Up Programs*, Docket No. M-0051871 (Final Order entered May 23, 2005), and abide by the reporting obligations set forth in 52 Pa. Coder § 69.2501(b). The Commission's *Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier for Purposes of Federal Universal Service Support*, Docket No. M-2010-2164741, (Aug. 2, 2010) outlines the minimum standards that must be met in order to receive ETC designation in the Commonwealth, and the specific elements that must be included in ETC petitions.

Zito meets all of the aforementioned requirements, as demonstrated below.

A. The Petitioner will be a Common Carrier

Section 214(e)(1) of the Act provides that applicants for ETC designation must be common carriers that will offer all of the services supported by the universal service fund ("USF"), either using its own facilities or a combination of its own facilities and the resale of another carrier's services. In those census blocks where it receives RDOF support Zito will operate as a common carrier in relation to its provision of voice services supported by RDOF. Zito provides voice service by operating its own switch, and that switch is connected to multiple call origination and call termination providers. Therefore, Zito, upon the grant of this

ETC designation, certifies that it will operate as a common carrier under 47 U.S.C. § 214(e) in those census blocks where it receives RDOF support, for purposes of ETC designation.

B. The Petitioner Shall Offer Required Services

Pursuant to 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1), the Petitioner shall, throughout the service area for which designation is received, offer the services that are supported by Federal universal service support mechanisms defined in 47 C.F.R. § 54.101(a). Zito can and will provide all required services to customers.

C. The Petitioner Shall Use Its Own Facilities, Or a Combination of Its Own Facilities and Resale of Another Carrier's Services

Pursuant to 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1), the Petitioner shall use primarily its own facilities, but at times may resell another carrier's services to offer the services that are supported by Federal universal service support mechanisms. Zito is a facilities-based carrier that will use a combination of its own facilities and the facilities of other service providers from time to time to provide requested services.

D. The Petitioner Shall Provide Service Throughout the Designated Service Area

Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d), the Petitioner shall offer the services that are supported by Federal universal service support mechanisms throughout the service area for which designation is received. In addition, the Petitioner commits to provide service throughout its proposed designated service area to all customers making a reasonable request for service. The Petitioner certifies that it will provide service on a timely basis to requesting customers within the Petitioner's service area where the Petitioner's network already passes the potential customer's premises. *See* 47 C.F.R. § 54.202(a)(1)(i). The Petitioner certifies that it will provide service within a reasonable period of time and within its Auction 904 buildout requirements, if the potential customer is within the Petitioner's ETC

service area but outside its existing network coverage, if service can be provided at reasonable cost by: 1) modifying, adjusting or replacing network or customer facilities; or 2) reselling services from another carrier's facilities to provide service. *See* 47 C.F.R. § 54.202(a)(1)(i).

E. The Petitioner Will Advertise

Pursuant to 47 U.S.C. § 214(e)(1)(B) and 47 C.F.R. § 54.201(d)(2), the Petitioner shall advertise the availability of the services that are supported by Federal universal service support mechanisms and the charges for such services using media of general distribution. The Petitioner may advertise, among other means, via internet, newspaper, mail circular, and radio and target residential customers with its advertising efforts.

F. The Petitioner Shall Make Available Lifeline Service

Pursuant to 47 C.F.R. § 54.405, the Petitioner shall make available Lifeline service to qualifying low-income consumers and publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. The Petitioner will make a concerted effort to notify municipal, state, and federal governmental agencies who may have access to those that will likely benefit the most from having the Petitioner designated as an ETC by the Commission. In addition, the Petitioner may advertise, among other means, via internet, newspaper, mail circular, and radio and target residential customers with its advertising efforts.

G. Service Area for Which Designation Is Requested

The Petitioner requests ETC designation in the RDOF census blocks it was awarded in the area of Mifflin County, Pennsylvania, attached hereto as Exhibit “A”.

H. Emergency Situations

Pursuant to 47 C.F.R. § 54.202(a)(2), a carrier seeking ETC designation must demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

The Petitioner has a reasonable amount of back-up power to ensure functionality of voice services without a commercial power source. All of the Petitioner's critical facilities and equipment will be first backed up with UPS battery sources, which detect any sudden loss of power and pick up the load during that event. Additionally, the Petitioner will also deploy a Generac, Kohler or Onan Cummins generators (all of which are fueled by either propane or natural gas) and automatic transfer switch, which will engage after 30-60 seconds and take over running the head end. The Petitioner is able to reroute voice traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations. If there is a failure of the Petitioner's main route, voice traffic is automatically rerouted to a back-up route.

I. Consumer Protection and Service Quality Standards

Pursuant to 47 C.F.R. § 54.202(a)(3), a carrier seeking ETC designation must demonstrate that it will satisfy applicable consumer protection and service quality standards. The Petitioner commits to comply with all applicable Commission and FCC rules concerning consumer protection and service quality.

J. Five Year Plan

Pursuant to 47 C.F.R. § 54.202(a)(1)(ii), a carrier seeking ETC designation must submit a five-year plan that describes proposed improvements or upgrades to the Petitioner's network. Zito provides a high-level summary below of its future plans in the census block group service area in Mifflin County, Pennsylvania (the “Service Area”).

The Service Area will be connected to the national services backbone of Zito’s parent company. This backbone is a ring based, multiprotocol label switching (“MPLS”) network, providing speeds no less than 40 Gbps and with an average speed of 100 Gbps. The MPLS backbone network is connected to Zito’s voice and video platforms as well as to major internet point of presence’s (“POP”) throughout the country.

Middle Mile Connections. The Service Area will be connected to the MPLS backbone network through middle mile connections with 10 Gigabit links that will allow the Petitioner to meet the low latency performance standards. In some cases, these middle mile connections are provided over Zito’s own facilities, but in other cases circuits or wavelengths from other carriers will be used for this connectivity. If possible, Zito engineers these connections to extend its MPLS backbone network all the way to the Service Area. In all cases, this middle mile connectivity will be engineered so that Zito can provide Gigabit per second speed to end users.

Last Mile. Zito will provide last mile connectivity to customers through traditional fiber/coax plant or fiber to the home or premise (“FTTP”). Zito will optimize its network design by area using fiber/coax or fiber to the home or premise technologies to provide broadband access speeds of 1 Gigabit and voice services in the Service Area.

Zito will use multiple last mile technologies to fulfill its commitments in the Service Area. In cases where Zito already has fiber/coax plant, Zito will utilize additional technology, upgrade the coaxial return path, and adjust node sizes so that it can support 1 Gbps downstream and 500 Mbps upstream. In areas requiring new network with adequate densities, Zito will use a FTTP architecture. In addition, any areas where Zito has to build fiber in order to connect to other last mile technologies will be served with direct fiber connections. These FTTP areas will meet the requirement of the Gigabit service tier.

Zito will provide voice by operating its own VoIP switch, which is connected to multiple call origination and call termination providers as well as to a provider of E911 services. Voice traffic will be transported over the Petitioner's MPLS backbone network from the Service Area to the Petitioner's VoIP switch and to Zito's call origination and call termination providers. Connectivity from the Petitioner's switch will be through third party providers.

In addition, as a RDOF Recipient, the Petitioner provided audited financials, cost estimates broken down by the service area, key assumptions that described with specificity proposed improvements or upgrades to the Petitioner's network over the buildout period throughout its proposed service area. Zito is financially viable and capable of providing the services described herein.

III. Designation of the Petitioner as an ETC Is in the Public Interest

Designation of the Petitioner as an ETC would serve the public's interest. Competition furthers the goals of communications services and provides the consumer with a greater choice of providers and service choices, which will in turn result in market-driven prices and quality. Granting the Petitioner ETC status would enhance customer choice and increase competition

and is therefore in the public interest. The designation of the Petitioner as an ETC will offer Pennsylvanian customers a greater choice of providers for accessing communications services not available to such customers today. Last, the Petitioner is an FCC RDOF Auction 904 awardee who will build out unserved and underserved areas under the RDOF program and this designation is required under that program, all of which is in the public interest.

IV. Consumer Certification

Consistent with 47 C.F.R. § 54.409, the Petitioner shall verify that the consumer receives benefits under an approved assistance program or that the consumers' household meets applicable income requirements; and that the consumer will notify the Petitioner if the consumer ceases participation in a program or his income criteria exceeds approved thresholds. The Petitioner shall obtain this certification annually and shall put in place quality control mechanisms to ensure that only eligible consumers are participating in Lifeline and that the consumer or no one in its household receives duplicate lifeline benefits.

V. Annual Reporting Requirements

The Petitioner shall comply with all annual reporting requirements for designated ETCs as applicable.

VI. Request for Expedited Treatment

As stated herein, the FCC requires each Auction 904 winner to obtain ETC status in the relevant states that cover its winning bid areas and must submit required documentation of the designation no later than June 7, 2021. Zito submits that it has demonstrated that it meets all of the requirements to obtain ETC designation, and that approving its Petition is in the public interest because it would allow Zito to access high cost support funds to extend its services to underserved areas in Mifflin County, Pennsylvania. For these reasons, Zito respectfully

requests that the Commission review and approve its Petition on an expedited basis to allow Zito to meet the FCC's June 7, 2021 deadline.

VII. Conclusion

WHEREFORE, the Petitioner respectfully requests designation as an ETC for foregoing reasons.

Respectfully Submitted,

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Counsel for Zito Mifflin County, LLC

January 5, 2021

Exhibit A

Below is the list of census blocks for which Zito Mifflin County, LLC seeks ETC designation. All census blocks are located in Mifflin County, PA (Census ID: 420879605002).

BLOCK ID
420879605002001
420879605002004
420879605002005
420879605002006
420879605002009
420879605002011
420879605002015
420879605002017
420879605002024
420879605002026
420879605002027
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420879605002082
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420879605002084
420879605002086
420879605002087

Exhibit B
Certificate to do Business in Pennsylvania

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS
401 NORTH STREET, ROOM 206
P.O.BOX 8722
HARRISBURG, PA 17105-8722
WWW.CORPORATIONS.PA.GOV

CT Corporation System
Counter Pickup
PA

Zito Mifflin County, LLC


The Bureau of Corporations and Charitable Organizations is happy to send your filed document. The Bureau is here to serve you and we would like to thank you for doing business in Pennsylvania.

Thank you for registering with the Department of State to do business in Pennsylvania. Like many other businesses, you may have employees, sell taxable products, or provide a taxable service to consumers in Pennsylvania. Please visit www.pa100.state.pa.us to register for Business Taxes with the PA Department of Revenue & Labor and Industry or visit www.Business.pa.gov to find answers to most common registration questions.

If you have any questions pertaining to the Bureau, please visit our website at www.dos.pa.gov/BusinessCharities Or you may contact us by telephone at (717)787-1057. Information regarding business and UCC filings can be found on our searchable database at www.corporations.pa.gov/Search/CorpSearch .

Entity number : 7188042

PENNSYLVANIA DEPARTMENT OF STATE
 BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

<input type="checkbox"/> Return document by mail to: CT - COUNTER Name: <u>13423395^{SO} 1</u> Address: <u>nicole.grimme@wolterskluwer.com</u> City: _____ State: _____ Zip Code: _____ <input checked="" type="checkbox"/> Return document by email to: _____	Foreign Registration Statement DSCB:15-412 (rev. 2/2017)  TCO210105DD0679
--	---

Read all instructions prior to completing. This form may be s

Fee: \$250 I qualify for a veteran/reservist-owned small business fee exemption (see instructions)

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 412 (relating to foreign registration statement), the undersigned foreign association hereby states that:

1. The type of association is (check only one):

- | | | |
|---|--|---|
| <input type="checkbox"/> Business Corporation | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Business Trust |
| <input type="checkbox"/> Nonprofit Corporation | <input type="checkbox"/> Limited Liability (General) Partnership | <input type="checkbox"/> Professional Association |
| <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Liability Limited Partnership | |

2. The full and proper name of the foreign association as registered in its jurisdiction of formation is:

Zito Mifflin County, LLC

2A. If the name in 2 does not contain a required designator or if the name in 2 is not available for use in the Commonwealth, the alternate name under which the association is registering in this Commonwealth is:

3. The jurisdiction of formation is: Delaware

4. The street and mailing address of the association's principal office.

<u>102 South Main Street</u>	<u>Coudersport</u>	<u>PA</u>	<u>16915</u>
Number and street	City	State	Zip

4A. The street and mailing address of the office, if any, required to be maintained by the law of the association's jurisdiction of formation in that jurisdiction:

<u>1209 Orange Street</u>	<u>Wilmington</u>	<u>DE</u>	<u>19801</u>
Number and street	City	State	Zip

PA DEPT OF STATE

JAN 05 2021

5. The (a) address of the association's proposed registered office in this Commonwealth or (b) name of its Commercial Registered Office Provider and the county of venue is:

Complete part (a) OR (b) -- not both:

(a) _____
 Number and street City State Zip County

OR

(b) c/o: C T Corporation System Dauphin
 Name of Commercial Registered Office Provider County

6. Check one of the following:

- The association may not have series.
- The association may have one or more series.

7. Effective date of registration of foreign association (check, and if appropriate complete, one of the following):

- The Foreign Registration Statement shall be effective upon filing in the Department of State.
- The Foreign Registration Statement shall be effective on: _____ at _____
 Date (MM/DD/YYYY) Hour (if any)

8. To be completed by Limited Liability Companies only. Check, and if appropriate complete, one of the following:

- The association is a limited liability company which is not organized to render any of the below professional service(s).
- The association is a restricted professional limited liability company organized to render one or more of the following professional service(s): (If this box is checked, one or more of the fields below must be checked.)

- | | | | |
|---------------------------------------|---|---|---|
| <input type="checkbox"/> Chiropractic | <input type="checkbox"/> Dentistry | <input type="checkbox"/> Law | <input type="checkbox"/> Medicine and surgery |
| <input type="checkbox"/> Optometry | <input type="checkbox"/> Osteopathic medicine and surgery | <input type="checkbox"/> Podiatric medicine | <input type="checkbox"/> Public accounting |
| <input type="checkbox"/> Psychology | <input type="checkbox"/> Veterinary medicine | | |

IN TESTIMONY WHEREOF, the undersigned association has caused this Foreign Registration Statement to be signed by a duly authorized representative thereof this 29th day of December, 2020.

Zito Milfin County, LLC
 Name of Association

[Signature]
 Signature

Vice President
 Title

Affidavit of Colin Higgin

Vice President at Zito West Holding, LLC

AFFIDAVIT

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF POTTER**

I, Colin Higgin, am the Vice President at Zito West Holding, LLC. Zito Mifflin County, LLC is a subsidiary of Zito West Holding, LLC. I have personal knowledge of the facts and information set forth in this Affidavit and I am competent to testify to these facts if called as witness. I have read the Petition to which this Affidavit is attached, and I have knowledge of the facts stated in this petition and those facts are true to best of my knowledge and belief. I am the corporate officer that will be responsible for certifying Zito Mifflin County, LLC's use of federal high-cost support.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th day of January, 2021.



Colin Higgin
Vice President
Zito West Holding, LLC