

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for designation as eligible
telecommunications carrier (ETC) by Easy
Telephone, Inc. DOCKET NO. 090337-TX
ORDER NO. PSC-10-0125-PAA-TX
ISSUED: March 2, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On June 18, 2009, Easy Telephone, Inc. (Easy Telephone) petitioned the Florida Public Service Commission (FPSC or Commission) for designation as an eligible telecommunications carrier (ETC) in the State of Florida. In its petition, Easy Telephone requested that it be granted ETC status in certain BellSouth/AT&T (AT&T), Sprint, and Verizon exchanges for purposes of receiving federal universal service support. However, on October 23, 2009, in response to our data request, Easy Telephone explained that it is only requesting ETC status within AT&T's service territory. Further, Easy Telephone stated that it is only seeking low-income support, and that it is not requesting high-cost support from the federal Universal Service Fund (USF).

In its petition, and in response to a staff data request, Easy Telephone states that it provides local exchange and exchange access service using a combination of resale and unbundled network elements (UNEs), or unbundled network equivalents obtained through a Interconnection Agreement with AT&T that allows end-to-end switching delivery of calls. Easy Telephone signed an applicant certification attesting that it will follow all Florida Statutes, Florida Administrative Rules, Florida PSC Orders, Federal Communications Commission (FCC)

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FPSC-COMMISSION CLERK

Rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding Universal Service, ETCs, Link-Up, Lifeline, and toll limitation service.

Easy Telephone is a Florida corporation organized in 1999 with its headquarters in Tamarac, Florida. The company was granted certification to operate as a Competitive Local Exchange Company (CLEC) in Florida on January 21, 2000, by Order Number PSC-00-0144-CO-TX.

As of October 23, 2009, Easy Telephone states that it serves 1,100 residential customers in Florida.

We have authority under Section 364.10(2), Florida Statutes, to decide a petition by a CLEC seeking designation as an ETC pursuant to 47 C.F.R. § 54.201.

II. Analysis

Pursuant to Federal Statute, state commissions have the primary responsibility to designate providers as ETCs.¹ Designation as an ETC is required in order for a provider to be eligible to receive monies from the federal USF. Section 254(e) of the Telecommunications Act of 1996 (Act) provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific federal universal service support.”² According to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal Universal Service mechanisms throughout its designated service area. Further, 47 CFR 54.405(b) specifies that ETCs must publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

ETC Certification Requirements

The Code of Federal Regulations addresses a state commission’s responsibilities related to an ETC designation:³

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

¹ 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).

² 47 U.S.C. § 254(e)(2).

³ 47 C.F.R. § 54.201(c).

To qualify as an ETC, a carrier must provide nine services identified in 47 CFR 54.101. The services are:

- (1) Voice grade access to the public switched network. Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage. Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;
- (3) Dual-tone multi-frequency signaling or its functional equivalent. Dual-tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent. Single-party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services. Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;
- (6) Access to operator services. Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion of a telephone call;
- (7) Access to interexchange service. Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance. Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers. Toll limitation or blocking restricts all direct-dial toll access.

In addition to providing the above services, 47 CFR 54.405(b) specifies that ETCs must publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

Additional ETC Certification Requirements

In addition to requiring the above services, the FCC, on March 17, 2005, issued a Report and Order that established additional criteria that all ETC applicants must satisfy in order to be granted ETC status by the FCC.⁴ In this Order, the FCC determined that an ETC applicant must also demonstrate:

- 1) a commitment and ability to provide the supported services throughout the designated area;
- 2) the ability to remain functional in emergency situations;
- 3) ability to satisfy consumer protection and service quality standards;
- 4) provision of local usage comparable to that offered by the incumbent LEC; and
- 5) an acknowledgement that the applicant may be required by the FCC to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.

The FCC encouraged states to also adopt these criteria, and we have done so in Docket No. 010977-TL (State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314), by Order No. PSC-05-0824-TL, issued August 15, 2005.

Public Interest Determinations

Under Section 214 of the Act, the FCC and state commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity for rural areas. They also must consider whether an ETC designation serves the public interest consistent with Section 254 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.⁵ Accordingly, before designating a carrier as an ETC, we make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.

Easy Telephone's Petition

Easy Telephone has requested that it be granted ETC status throughout the non-rural wire centers of AT&T for the purpose of receiving federal universal service support. The company

⁴ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46, Adopted: February 25, 2005, Released: March 17, 2005.

⁵ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46 (¶40), Adopted: February 25, 2005, Released: March 17, 2005.

maintains that it is only seeking low-income support, and it is not requesting high-cost support from the federal USF. Easy Telephone's primary purpose in requesting ETC status in Florida is to provide Lifeline and Link-Up services over landline access lines.

Easy Telephone has acknowledged the requirements of the Florida Lifeline program, and it has agreed to adhere to the program which provides qualified customers a total of \$13.50 in Lifeline assistance credits consisting of: \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state Lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. Easy Telephone indicates that it will provide the \$3.50 credit to qualified clients, advertise the availability of Lifeline, and begin offering these services within 60 days of receiving ETC status.

Easy Telephone states that it can provide local exchange and exchange access services using a combination of resale and unbundled network elements (UNEs). Federal rules do not require companies to lease UNEs prior to ETC designation. However, Federal rules do require that ETCs provide local exchange and exchange access services using a combination of resale and UNEs prior to requesting reimbursement from the USF.

Easy Telephone has also indicated that its accounts with the FCC and the Universal Service Administrative Company (USAC) are current, and it is not aware of any outstanding complaints or violations with either entity. As part of the petition process, Easy Telephone has agreed to abide by our rules pertaining to the Lifeline and Link-Up programs. Easy Telephone commits to use federal universal service support only for the provision of services for which the support is intended.

We have reviewed Easy Telephone's payment history of regulatory assessment fees, consumer complaint incidents and the timely resolution of those complaints, their compiled financial statements, and the company's status with the Florida Department of State Division of Corporations, among other sources. Easy Telephone appears to be in good standing.

III. Decision

Based on our review, along with Easy Telephone's commitment to abide by both state and federal rules and procedures, we find that Easy Telephone's petition to be designated as an ETC is in the public interest and shall be approved. If Easy Telephone should decide in the future to seek High Cost universal service funds, ETC status in rural areas, or ETC designation as a wireless ETC, it shall be required to file a petition and make a showing that it would be in the public interest to grant such a request. We shall continue the necessary oversight to ensure that Easy Telephone, along with all other ETCs in Florida, are upholding these principles and attaining the goals and objectives of both the state and federal universal service programs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Easy Telephone, Inc.'s Application for Eligible Telecommunications Carrier Status in AT&T's service territory is hereby granted as set forth in the body of this order. It is further

ORDERED that if no person whose substantial interests are affected files a protest to this Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto.

By ORDER of the Florida Public Service Commission this 2nd day of March, 2010.



ANN COLE
Commission Clerk

(S E A L)

TJB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 23, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.