

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

ORDER

Adopted: February 17, 2016

Released: February 17, 2016

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we approve a request filed by NEP Cellcorp, Inc. (NEP) to relinquish its eligible telecommunications carrier (ETC) designation (study area code 179010) in the Commonwealth of Pennsylvania.¹ The relinquishment shall be effective upon release of this order.

2. Section 214(e)(6) of the Communications Act of 1934, as amended (the Act), authorizes the Federal Communications Commission (Commission) to designate a carrier as an ETC when a state commission lacks jurisdiction.² Section 214(e)(4) of the Act provides that the Commission “shall permit” an ETC to relinquish its designation “in any area served by more than one” ETC so long as “the remaining [ETCs] ensure that all customers served by the relinquishing carrier will continue to be served.”³ Consistent with this statutory requirement, once the requesting ETC makes the requisite showing under section 214(e)(4), a state commission or this Commission grants the request for relinquishment.

3. The Commission designated NEP as an ETC in the Commonwealth of Pennsylvania on April 29, 2008.⁴ On July 17, 2008, NEP requested that the Commission amend NEP’s authorization to expand its ETC designation area.⁵ The Wireline Competition Bureau granted that request on April 29, 2010.⁶

¹ NEP Cellcorp, Inc. Notice of Relinquishment of Eligible Telecommunications Carrier Designation, WC Docket No. 09-197 and CC Docket No. 96-45 (filed Nov. 19, 2015), <http://apps.fcc.gov/ecfs/document/view?id=60001338970> (NEP Relinquishment Notice). NEP provided a study area code of 17910, which is a typo. *See id.* at 1. The correct study area code is 179010.

² 47 U.S.C. § 214(e)(6).

³ 47 U.S.C. § 214(e)(4).

⁴ *See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al., Petitions for Designation as Eligible Telecommunications Carriers*, WC Docket Nos. 05-337, 96-45, Order, 23 FCC Rcd 8834, 8866 (2008).

⁵ Petition of NEP Cellcorp, Inc. to Amend Designation as an Eligible Telecommunications Carrier in the State of Pennsylvania, CC Docket No. 96-45, <http://apps.fcc.gov/ecfs/document/view?id=6520034519> (filed Jul. 17, 2008).

⁶ *Federal-State Joint Board on Universal Service, NEP Cellcorp, Inc. Petition to Amend Designation as an Eligible Telecommunications Carrier in the State of Pennsylvania*, CC Docket No. 96-45, Order, 25 FCC Rcd 4567, 4569,

4. Pursuant to section 214(e) of the Act, NEP filed notice of its intent to relinquish the ETC designation that it holds in Pennsylvania.⁷ In its request, NEP states that other carriers are designated as ETCs in the service area in which it seeks to relinquish its designation.⁸ Furthermore, as of October 16, 2015, all of NEP's customers had been migrated from its retail wireless facilities.⁹ Prior to exiting the retail wireless business, NEP provided notice to all of its customers, including its single Lifeline customer, of its intent to do so.¹⁰ Its lone Lifeline customer ported its wireless service to AT&T on July 24, 2015.¹¹ Customers were not subject to any fee from NEP for service migration, and NEP did not impose any early termination fees.¹² Based on these circumstances, including our finding that NEP has demonstrated that various carriers designated as ETCs in the areas in which it seeks to relinquish its designation will continue to serve the affected Lifeline subscribers, we conclude that it is appropriate to grant NEP's request to relinquish its ETC designation in the Commonwealth of Pennsylvania.¹³

5. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(4) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(4), and the authority delegated in sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, the ETC designation of NEP Cellcorp, Inc. in Pennsylvania, as provided herein, IS RELINQUISHED, effective upon release of this order.¹⁴

6. IT IS FURTHER ORDERED that, NEP SHALL TRANSMIT a copy of this order to the Pennsylvania Public Utility Commission and the Universal Service Administrative Company.

para. 7 (WCB 2010). On February 26, 2009, the Pennsylvania Public Utility Commission (PUC) informed the Commission of its decision to exercise authority to designate wireless ETCs under Section 214(e)(2) of the Act. *See* Letter from Joseph K. Witmer, Assistant Counsel Pennsylvania Public Utility Commission, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (filed Feb. 26, 2009). However, the PUC recognized that, based on the length of time that NEP's petition has been pending and the Commission's familiarity with the record, the Commission should address NEP's petition to amend its authorization. *See* Letter from Joseph K. Witmer, Assistant Counsel Pennsylvania Public Utility Commission, to Marlene H. Dortch, Secretary, FCC, et al., WC Docket No. 05-337, CC Docket 96-45, at 2 (filed Feb. 2, 2010). In 2014, the PUC amended and expanded NEP's ETC designation with regard to Lifeline service to add additional areas within Wayne County, Pennsylvania. *See Petition of NEP Cellcorp, Inc. to Amend Designation as an Eligible Telecommunications Carrier in the Commonwealth of PA for the Purpose of Providing Lifeline Service on a Wireless Basis*, Docket No. P-2013-2356640, 2014 WL 5112824 (Pa.P.U.C. 2014). On October 30, 2015, NEP filed a petition to relinquish its designation as an ETC in Pennsylvania. The PUC granted NEP's petition on December 27, 2015. *See Petition of NEP Cellcorp, Inc. to Relinquish its Designation as an Eligible Telecommunications Carrier in the Commonwealth of PA*, Docket Nos. P-2015-2511520, and P-2013-2356640, Order, 2015 WL 9310204 (Pa.P.U.C. 2015).

⁷ *See* NEP Relinquishment Notice at 1.

⁸ *Id.* at 2, Exhibit A, Exhibit B.

⁹ *Id.* at 3-4. NEP's network remains operational at this time, and the company continues to provide roaming services. *Id.* at 4. As NEP ceased providing retail services on October 16, 2015, we direct the Universal Service Administrative Company (USAC) to recover any universal service funds received by NEP after that date. *See id.* at n.1.

¹⁰ *Id.* at 2-3.

¹¹ *Id.*

¹² *Id.* at 3.

¹³ *Id.* at 2, Exh. A, Exh. B; 47 U.S.C. § 214(e)(4).

¹⁴ Effective upon release of this order the Universal Service Administrative Company shall discontinue the eligibility of the study area code 179010 assigned to NEP in Pennsylvania.

7. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau