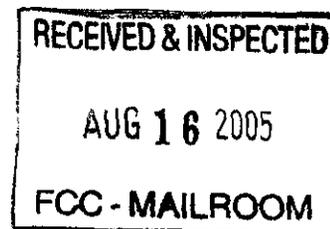
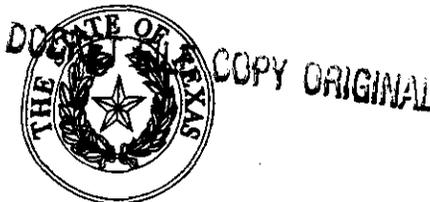


Julie Parsley
Commissioner

Paul Hudson
Chairman

Barry T. Smitherman
Commissioner

W. Lane Lanford
Executive Director



Public Utility Commission of Texas

Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D.C. 20554

Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2000 L. Street, NW - Suite 200
Washington, D.C. 20036

August 10, 2005

RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

TX PUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant to FTA '96 §214(e) (2)

Docket No. 30666 - Application of Mid-Tex Cellular, Ltd. for Designation as an Eligible Telecommunications Carrier Pursuant to 47 U.S.C. 241(e) and P.U.C. Subst. R. 26.418

Designation of Mid-Tex Cellular LTD - ETC Designation

Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 - 54.203, the Texas Public Utility Commission (TPUC) has granted eligible telecommunications carrier (ETC) designation to Mid-Tex Cellular, LTD. (Mid-Tex Cellular) for the rural exchanges of Coleman County Telephone Cooperative and Comanche County Telephone Company study areas located within Mid-Tex Cellular's CMRS territory. The attached *Final Order*, Docket No. 30666, issued on August 9, 2005, grants the ETC designation.

If you require any additional information please call Janis Ervin at (512)-936-7372.

Sincerely,

Janis Ervin - Senior Policy Specialist
Telecommunications Division - Texas Public Utility Commission

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**PUC DOCKET NO. 30666
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PUBLIC UTILITY COMMISSION

**APPLICATION OF MID-TEX
CELLULAR LTD. FOR DESIGNATION
AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
(ETC)** §
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

This Order grants the application of Mid-Tex Cellular, Ltd. (Mid-Tex) for designation as an eligible telecommunications carrier (ETC) in the study areas of two rural incumbent local exchange carriers (ILECs) – Coleman County Telephone Cooperative, Inc. (Coleman) and Comanche County Telephone Company, Inc. (Comanche). This docket was processed in accordance with applicable statutes and Public Utility Commission of Texas rules. Mid-Tex, Commission Staff, and the State of Texas filed a joint Settlement Agreement and Stipulation that resolved all issues raised in Mid-Tex’s application. In this Order, the Commission clarifies the applicability of Commission rules to Mid-Tex’s service. As clarified, the Commission approves Mid-Tex’s application.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On January 1, 2005, Mid-Tex filed an application seeking designation as an ETC pursuant to the Federal Telecommunications Act of 1996,¹ 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418 in the study areas of Coleman and Comanche so that it could seek support from the Federal Universal Service Fund (FUSF).

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified as amended in scattered sections of 15 and 47 U.S.C.) (FTA).

2. Notice of Mid-Tex's application was properly provided in the *Texas Register* on February 4, 2005.
3. On February 17, 2005, State filed a motion to intervene in this proceeding. On February 28, 2005, State's motion was granted.
4. On February 18, 2005, Mid-Tex filed an amendment to its application, including the affidavit of Toney Prather in which the company reiterated its commitment to provide service to all customer requests for service throughout the service area for which it seeks ETC designation and to comply with all present and future Federal Communications Commission (FCC) regulations related to the provision of Enhanced 911 (E911) service.
5. On February 28, 2005, the FCC issued a press release regarding its adoption of minimum requirements for a telecommunications carrier to be designated as an ETC by the FCC. The FCC encouraged states that exercise jurisdiction over ETC designations to adopt these same minimum requirements.
6. On March 3, 2005, Mid-Tex filed an affidavit stating that it believes it can comply with the requirements as outlined in the FCC's press release; therefore, the Company agrees to comply with the new minimum ETC requirements at such time as the Commission adopts similar rules.
7. On March 14, 2005, this proceeding was referred to the State Office of Administrative Hearings (SOAH) and requested assignment of an Administrative Law Judge in order to conduct a hearing on the merits.
8. On March 28, 2005, the Texas Statewide Telephone Cooperative, Inc. (TSTCI) and the Texas Telephone Association (TTA) filed a plea in intervention in this docket.

9. On March 30, 2005, representatives of Mid-Tex, State, and Staff attended a pre-hearing conference in this matter. The parties agreed to file a status report indicating whether they wish to continue settlement negotiations, have settled the case, or wish to proceed with a procedural schedule for a hearing on the merits, no later than 30 days after the order resolving the motion to intervene was issued.
10. On April 4, 2005, TSTCI/TTA filed a statement of position in which it advised it would take the same position it had adopted in previous proceedings, in that the Commission apply equal guidelines to all entities designated for ETC status, which they claim the Commission has failed to do. However, TSTCI/TTA stated that it would not actively participate in this proceeding, would not seek a separate hearing on the merits, and would not object to a reasonable resolution of this proceeding through an agreed order/stipulation.
11. On June 27, 2005 Mid-Tex, Staff, and State filed a Stipulation which resolved all of the issues in this proceeding.
12. On June 30, 2005, SOAH returned this docket to the Commission for administrative processing.

Stipulation

13. Mid-Tex agrees to provide service to any consumer within the proposed study areas. If signal coverage is unsatisfactory the Company will take the following steps, as necessary, to provide service to the desired location:
 - a. Mid-Tex will determine whether the customer's equipment can be modified or replaced to provide service to the desired location.
 - b. Mid-Tex will determine whether the customer could be provided with other network equipment, such as a booster or antenna to provide service in the requested location.
 - c. Mid-Tex will determine whether adjustments at the nearest cell site can be made to provide service.

- d. Mid-Tex will determine whether there are any other adjustments to either the network or the customer facilities that can be made to provide service.
 - e. Mid-Tex will explore the possibility of offering service via resale or roaming agreements with other carriers.
 - f. Mid-Tex will determine whether additional network infrastructure, such as an additional cell site, extender, or repeater, could be constructed to provide service, and evaluate the costs and benefits of using high-cost universal service support to serve a number of customers requesting service.
 - g. If Mid-Tex cannot provide satisfactory service after following the steps described above, it will notify the Commission, which could determine whether the Company had failed to meet its service obligations.
14. Mid-Tex receives ETC designation, if Mid-Tex commits to construct an additional 12 cell site towers within two years to improve capacity and coverage. Each cell site will also be equipped with a permanent backup generator capable of at least six hours of backup power. A mobile cell site will also be purchased to serve the designated areas in an emergency, or if a short-term remedy is needed due to capacity or coverage issues. The estimated investment over the two-year period is \$2,117,000.00.
 15. Mid-Tex agrees to report annually its expenses and investment for each study area, the results of an annual customer satisfaction survey, and the total number of complaints received, per 1,000 handsets, like that of Dobson Cellular Systems in Docket No. 29144. Any information that Mid-Tex deems confidential may be filed at the Commission under seal pursuant to P.U.C. PROC. R. 22.71(d).
 16. Mid-Tex agrees to follow the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.
 17. Under the CTIA Code, a wireless carrier agrees to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is available; (3) provide contract terms to customers and confirm changes in service; (4) allow a 14-day trial

period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing instruments; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies of consumer privacy.

18. Mid-Tex confirmed that some amount of local usage is included in every service offering eligible for universal service support. Mid-Tex offers an unlimited local calling plan currently priced at \$29.95 per month. Mid-Tex also offers a plan that provides 125 minutes of usage (anytime/anywhere in the nation) for \$24.95 per month.
19. Mid-Tex agrees to comply with any new Commission rules applied to all ETC designees as a result of the FCC's Report and Order.²
20. Mid-Tex's service offerings provide advantages over wireline service offerings because of the mobility and added safety wireless service provides rural customers.
21. Mid-Tex's infrastructure additions to improve capacity and coverage, provision of backup generators at the new cell towers, and use of a mobile cell site are a concrete and specific benefit to consumers.
22. Designation of Mid-Tex as an ETC would be of material benefit above and beyond the *status quo* of its existing operations in the study areas.

II. Conclusion of Law

1. Mid-Tex is a common carrier pursuant to 47 U.S.C. § 153(10).

² *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC, Report and Order at ¶ 61 (Mar. 17, 2005).

2. The Commission has jurisdiction over this docket pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 214 (e), and the Public Utility Regulatory Act, TEX. UTIL. CODE ANN., Chapter 52 (Vernon 1998 & Supp. 2005).
3. The notice provided in this docket is legally sufficient under P.U.C. PROC. R. 22.55 and P.U.C. SUBST. R. § 26.418(g).
4. A carrier must meet the requirements of 47 C.F.R. § 54.201(d) in order to be designated as an ETC.
5. The Commission's rules related to ETC designation are at P.U.C. SUBST. R. 26.418.
6. To be designated as an ETC in an area served by a rural ILEC, a carrier must prove:
 - a. it is a common carrier under federal law consistent with P.U.C. SUBST. R. 26.418(a);
 - b. it offers the services specified for FUSF support in 47 C.F.R. § 54.101(a) (the federally supported services) throughout the ILEC's study area, either through its own facilities or a combination of its own facilities and resale of another carrier's services consistent with P.U.C. SUBST. R. 26.418(b)(2) and (c)(1);
 - c. it advertises the availability of and charges for such services using media of general distribution consistent with P.U.C. SUBST. R. 26.418(c)(2);
 - d. it offers Lifeline Service to qualifying low-income consumers, and toll limitation services consistent with P.U.C. SUBST. R. 26.418(d)(2-3); and
 - e. that designation as an ETC is in the public interest consistent with P.U.C. SUBST. R. 26.418(e)(2).
7. The following services are designated for support in 47 C.F.R. § 54.101(a):
 - a. voice grade access to the public switched network;
 - b. local usage;
 - c. dual tone multi-frequency signaling (DTMF);
 - d. single-party service;

- e. access to emergency services;
 - f. access to operator services;
 - g. access to interexchange service;
 - h. access to directory assistance; and
 - i. toll limitation for qualifying low-income consumers.
8. Under P.U.C. SUBST. R. 26.418(e), the Commission may designate an additional ETC if that carrier meets the requirements and if the Commission finds that designation is in the public interest.
9. Mid-Tex provides voice-grade access to the public switched network, as required by 47 C.F.R. § 54.101(a)(1).
10. Mid-Tex offers local usage as required by 47 C.F.R. § 54.101(a)(2).
11. Mid-Tex offers DTMF as required by 47 C.F.R. § 54.101(a)(3).
12. Mid-Tex provides single-party service consistent with by 47 C.F.R. § 54.101(a)(4).
13. Mid-Tex provides access to emergency services consistent with 47 C.F.R. § 54.101(a)(5).
14. Mid-Tex provides access to operator services consistent with 47 C.F.R. § 54.101(a)(6).
15. Mid-Tex provides access to interexchange service to make and receive interexchange calls consistent with 47 C.F.R. § 54.101(a)(7).
16. Mid-Tex provides access to directory assistance consistent with 47 C.F.R. § 54.101(a)(8).
17. Mid-Tex can provide toll limitation through toll blocking consistent with 47 C.F.R. § 54.101(a)(9).

18. Mid-Tex can provide the federally supported services throughout the study areas for which it seeks ETC designation consistent with P.U.C. SUBST. R. 26.418(b)(2) and (c)(1).
19. Mid-Tex can advertise the availability of and charges for the federally supported services, as required by P.U.C. SUBST. R. 26.418(c)(2).
20. Mid-Tex can provide Lifeline and Link-Up services, and toll limitation (toll blocking) consistent with P.U.C. SUBST. R. 26.418(d)(2-3).
21. The public interest requirement for designation of an ETC in a rural ILEC study area is found at 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418(e)(2).
22. Consistent with 47 U.S.C. § 254(f), state commissions have the authority to adopt additional criteria for federal universal service recipients, as long as those criteria do not conflict with the federal standards.
23. As set forth in Docket No. 27709,³ an applicant for ETC designation in a rural ILEC study area must demonstrate that its designation is of material benefit above and beyond the *status quo* of its existing operations in the requested areas.
24. As set forth in Docket No. 27709, information on the following criteria may be pertinent to an ETC determination for a rural ILEC study area: (a) service offerings, including additional service offerings for the proposed ETC designation areas; (b) additional service quality commitments; (c) detailed coverage areas; (d) continuation of service commitments, such as back-up power capability; (e) consumer protection standards; and (f) information regarding how the company will better serve the consumer if granted designation.

³Application of NPCR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation, Docket No. 27709 (June 30, 2004) (Docket No. 27709).

25. Consistent with 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418(e)(2), Mid-Tex's designation as an ETC is in the public interest.

III. Ordering Paragraphs

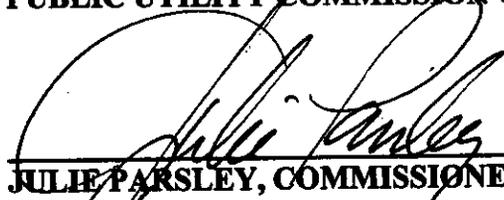
In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Consistent with the Stipulation and this Order, the application of Mid-Tex for designation as an ETC in the study areas of Coleman County Telephone Cooperative, Inc. and Comanche County Telephone Company, Inc., is granted.
2. Mid-Tex shall provide service to any consumer requesting service within the proposed study area. If signal coverage is unsatisfactory Mid-Tex shall take specific steps as listed in this order to provide satisfactory service.
3. Mid-Tex shall construct an additional 12 cell site towers within two years to improve capacity and coverage as listed in the stipulation. Each cell site will also be equipped with a permanent backup generator capable of at least six hours of backup power. A mobile cell site shall also be purchased to serve the designated areas in an emergency, or if a short-term remedy is needed due to capacity or coverage issues.
4. Mid-Tex shall report annually as part of its application for annual ETC certification pursuant to P.U.C. SUBST. R. 26.418(j), its expenses and investment for each study area, the results of an annual customer satisfaction survey, and the total number of complaints received, per 1,000 handsets, like that of Dobson Cellular Systems in Docket No. 29144. Any information that Mid-Tex deems confidential may be filed at the Commission under seal pursuant to P.U.C. PROC. R. 22.71(d).

5. Mid-Tex shall follow the Cellular Telecommunications and Internet Association's (CTIA) Consumer code for Wireless Service.
6. To the extent the Commission adopts new service or reporting rules that apply to Mid-Tex's service as an ETC in Texas, Mid-Tex shall comply with those rules.
7. Mid-Tex shall provide the federally supported services throughout the study areas for which it seeks ETC designation consistent with P.U.C. SUBST. R. 26.418(b)(2) and (c)(1).
8. Mid-Tex shall advertise the availability of and charges for the federally supported services, as required by P.U.C. SUBST. R. 26.418(c)(2).
9. Mid-Tex shall provide Lifeline and Link-Up services, and toll limitation (toll blocking) consistent with P.U.C. SUBST. R. 26.418(d)(2-3).
10. Entry of this Order consistent with the Stipulation shall not be construed as indicating the Commission's endorsement or approval of any principle or methodology that may underlie the Stipulation and shall not be regarded as a binding holding or precedent as to the appropriateness of any principle underlying the Stipulation.
11. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 9th day of August 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



JULIE PARSLEY, COMMISSIONER



PAUL HUDSON, CHAIRMAN



BARRY T. SMITHERMAN, COMMISSIONER