

Before the
Federal Communications Commission
Washington, D C 20554

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MAY 16 2006

FCC Mail Room

In the Matter of)
)
Request by AT&T Texas for Limited Modification)
of LATA Boundaries to Provide Expanded Local) WC Docket No 06-69
Calling Service (ELCS) Between the Talco and)
Paris Exchanges in the State of Texas)
)

MEMORANDUM OPINION AND ORDER

Adopted: May 12, 2006

Released: May 12, 2006

By the Chief, Competition Policy Division

I INTRODUCTION

1 On March 16, 2006, AT&T Inc , on behalf of Southwestern Bell Telephone, L P , d/b/a AT&T Texas ("AT&T"), pursuant to section 3(25) of the Communications Act of 1934, as amended (the Act),¹ filed a petition requesting a limited modification of LATA boundaries in Texas for the provision of two-way, flat-rated, non-optional, expanded local calling service ("ELCS")² between the Talco exchange in the Longview LATA and the Paris exchange in the Dallas LATA.³ The Public Utility Commission of Texas (Texas Commission) has already approved an expansion of the current ELCS serving these exchanges.⁴ We grant AT&T's Petition for the reasons stated below

¹ See 47 U.S.C. § 153(25). Section 3(25) of the Act defines a Local Access Transport Area (LATA) as a contiguous geographic area (1) established prior to enactment of the 1996 Act by a Bell Operating Company (BOC) such that no exchange area includes points within more than one metropolitan statistical area, consolidated metropolitan statistical area, or state, except as expressly permitted under the AT&T Consent Decree, or (2) established or modified by a BOC after such date of enactment and approved by the Commission. *Id.*

² See Petition of AT&T Inc for Modification of LATA Boundary in Texas, WC Docket No 06-69 (filed Mar 16, 2006) (AT&T petition). See *Pleading Cycle Established for Comments on AT&T's Request for Limited Modification of the LATA Boundary to Provide Expanded Local Calling Service Between the Talco and Paris Exchanges in the State of Texas*, WC Docket No 06-69, Public Notice, DA 06-666 (rel Mar 24, 2006). We note that both exchanges are in Texas. ELCS allows local telephone service rates to apply to nearby telephone exchanges, thus providing an expanded local calling area.

³ AT&T Petition at 1-2. Southwestern Bell Telephone Company d/b/a SBC Texas provides local exchange service in the Paris exchange, which has 25,326 access lines. Peoples Telephone Cooperative, Inc provides local exchange service in the Talco exchange, which has 565 access lines.

⁴ See AT&T Petition at 2, and Attachment A, Public Utility Commission of Texas, *Petition for Expanded Local Calling Service from the Talco Exchange to the Exchange of Paris*, Docket No 31950, Interim Order (rel Feb 1, 2006) (Texas Commission Order).

II BACKGROUND

2 Requests for new ELCS routes are generally initiated by local subscribers.⁵ Although intraLATA ELCS routes can be ordered by a state commission,⁶ requests for interLATA ELCS routes fall within the Federal Communications Commission's (Commission's) exclusive jurisdiction pursuant to section 3(25)(B) of the Act.⁷ Applying a two-part test, the Commission will grant a request for a LATA boundary modification where (1) the applicant proves that the requested LATA modification would provide a significant public benefit, and (2) granting the petition would not remove the BOC's incentive to receive authority to provide in-region, interLATA service pursuant to section 271 of the Act.⁸ The AT&T Petition proposes to establish two-way, non-optional ELCS, and is accompanied by an Order issued by the Texas Commission approving the ELCS request between the Talco and Paris exchanges.⁹ No party filed comments opposing the AT&T Petition.

III DISCUSSION

3 We conclude that AT&T's petition satisfies the Commission's two-part test. Applying the first prong of the test, we find that AT&T has shown that a significant public interest benefit would result from the ELCS because a sufficient community of interest exists among the affected exchanges to justify treatment as a local calling area.¹⁰ In reaching this finding, we note that the ELCS service that AT&T proposes to offer between these exchanges¹¹ is the type of service this Commission has determined to be consistent with the public interest.¹² We also find it a persuasive indicator of a community of interest that the Texas Commission found that an ELCS route between the affected exchanges satisfied the state's geographic requirements, as well as community of interest criteria.¹³ We find, accordingly, that the petition is based on a significant community of interest, and thus satisfies the first prong of the Commission's two-part test.

4 AT&T also satisfies the second prong of the two-part test because it has already opened its market to competition in Texas, and the Commission has thus granted it authority under section 271 to offer long distance service in that state.¹⁴ Thus, granting the requested modification has no bearing on

⁵ AT&T states that 88.39% of Talco customers returning ballots voted in favor of ELCS to Paris. AT&T Petition at 2.

⁶ *United States v. Western Electric Company, Inc.*, 569 F. Supp. 990, 995 (D.D.C. 1983) ("The distance at which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies.")

⁷ *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding U.S. WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, File No. NSD-L-97-6, Memorandum Opinion and Order, 14 FCC Rcd 14392, 14393-143402, paras. 4-20 (1999).

⁸ 47 U.S.C. § 271. See *SBC Telecom, Inc. Petition for Modification of Certain LATA Boundaries in Ohio*, File No. NSD-I-00-25, Memorandum Opinion and Order, 18 FCC Rcd 26398, 26399-263402, paras. 2, 6-8 (2003).

⁹ Texas Commission Order at 2-3.

¹⁰ See *Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, Memorandum Opinion and Order, 12 FCC Rcd 10646, 10653, para. 14 (1997) (*July 1997 LATA Order*).

¹¹ AT&T Petition at 2.

¹² See *July 1997 LATA Order*, 12 FCC Rcd at 10654-56, paras. 18-19.

¹³ *Texas Order* at 2 (stating that Talco residents rely heavily on services in the Paris exchange).

¹⁴ See *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the*

(continued)

AT&T's incentive to receive such authority. Moreover, we conclude that the LATA boundary modifications would have a minimal effect upon AT&T's incentives because modification of any of the individual LATA boundaries would affect only a small number of access lines.¹⁵ As a result, granting AT&T's petition serves the public interest by permitting minor LATA modifications where such modifications are necessary to meet the needs of local subscribers. Accordingly, we approve AT&T's petition for limited LATA boundary modifications.

5 We grant this relief solely for the limited purpose of allowing AT&T to provide ELCS between specific exchanges or geographic areas identified in this request. The LATA boundary is not modified to permit AT&T to offer any other type of service, including calls that originate or terminate outside the specified areas. Thus, two-way, non-optional ELCS between the specified exchanges will be treated as intraLATA service.

IV ORDERING CLAUSE

6 Accordingly, IT IS ORDERED, pursuant to sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), and authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the request of AT&T for a limited modification of LATA boundaries for the limited purpose of providing two-way, traditional, non-optional ELCS between the specific locations in Texas, as identified in WC Docket No. 06-69, IS APPROVED.

FEDERAL COMMUNICATIONS COMMISSION



Renee R. Crittendon
Division Chief
Competition Policy Division
Wireline Competition Bureau

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Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000)

¹⁵ For the purposes of ELCS petitions, we generally consider the number of access lines from customers in the smaller exchange who seek to reach businesses and services in the other exchange because the smaller exchange usually generates the majority of calls between the two exchanges. *Southwestern Bell Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)*, WC Docket No. 02-134, Memorandum Opinion and Order, 17 FCC Rcd 25540 (2002). Based upon the number of Peoples Telephone Cooperative access lines in the Talco exchange (565 access lines), the LATA boundary modification would affect only a small number of access lines. See AT&T Petition at 2.