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Executive Director



**Public Utility Commission of Texas**

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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

June 12, 2007

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

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

**TPUC Docket No. 33481 - Application of iBroadband Networks, Inc. for Designation as an Eligible Telecommunications Carrier and an Eligible Telecommunications Provider**

**ETC Designation of iBroadband Networks, Inc.**

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 iBroadband Networks, Inc. (iBroadband). The attached *Order*, Docket No. 33481, issued on June 11, 2007, grants iBroadband ETC designation throughout the United Telephone Company of Texas (United) study area. United is a rural incumbent local exchange carrier (ILEC).

If you require any additional information please call Rick Thompson at (512) 936-7257.   
List ABCDE

Sincerely,



**Rick Talbot – Policy Analyst  
Communication Industry Oversight Division - Texas Public Utility Commission**

**cc: attachment**

**PATUS\FETC-ETP Cases\33481 - iBroadband ETC-ETP\33481 iBroadband FCC USAC Letter.doc**

PUC DOCKET NO. 33481  
SOAH DOCKET NO. 473-07-2044

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APPLICATION OF IBROADBAND §  
NETWORKS, INC. FOR §  
DESIGNATION AS AN ELIGIBLE §  
TELECOMMUNICATIONS CARRIER §  
AND AS AN ELIGIBLE §  
TELECOMMUNICATIONS §  
PROVIDER §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER**

This Order approves the application of iBroadband Networks, Inc. (iBroadband) for designation as an Eligible Telecommunications Carrier (ETC) and an Eligible Telecommunications Provider (ETP) throughout the United Telephone Company of Texas, Inc. (United) study area. This docket was processed in accordance with applicable statutes and Public Utility Commission of Texas (Commission) rules. iBroadband and Commission Staff, the only remaining parties in this docket, filed a Proposed Settlement and Order (Agreement) which fully resolved all of the issues in this proceeding. Consistent with the Agreement, iBroadband's application is approved.

**I. Introduction**

On November 10, 2006, iBroadband filed with the Commission an application (Application) requesting concurrent designation as an ETC pursuant to P.U.C. SUBST. R. 26.418 and an ETP pursuant to P.U.C. SUBST. R. 26.417 within certain telephone exchanges operated by United, Southwestern Bell Telephone, LP d/b/a AT&T Texas (AT&T Texas), and Verizon Southwest (Verizon). iBroadband filed this Application because of its plan to acquire the assets, including customer base, of Cedar Valley Communications, Inc. (CVC) and to take over the provision of telecommunications services, including local exchange service, to all of CVC's customers, on the same terms and conditions as provided by CVC. At the time of iBroadband's filing of its Application, CVC had been providing exchange service as an ETC and ETP for several years.<sup>1</sup>

<sup>1</sup> CVC's applications to designate it as an ETC and ETP for purposes of providing service in the United service area were granted in October 2003 in Docket Nos. 28404 and 28463 when CVC called itself TVS Communications. The Commission later granted TVS's request to change the company's name to CVC by order effective April 15, 2005, in Docket No. 29325.

On April 20, 2007, iBroadband amended its Application in order to (1) make clear that it seeks designation as an ETC and ETP throughout the United study area but no longer seeks designation as an ETC and ETP in any portion of the AT&T Texas or Verizon study areas; and (2) set forth numerous ways in which the granting of its Application would be in the public interest.

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

## II. Findings of Fact

### Background, Notice, and Procedural History

1. iBroadband is a telecommunications carrier providing telecommunications services to the public within the United study area.
2. On November 10, 2006, iBroadband filed its Application with the Commission for designation as an ETC pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418 to be eligible to receive support from the Federal Universal Service Fund (FUSF), and as an ETP pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.417 to be eligible to receive support from the Texas Universal Service Fund (TUSF).
3. iBroadband initially requested designation as an ETC and ETP throughout the AT&T Texas and Verizon study areas and in part of the United study area. However, iBroadband later amended the Application to eliminate the request for designation as an ETC and ETP in the AT&T Texas and Verizon study areas and to request designation as an ETC and ETP throughout the United study area.
4. Notice of iBroadband's Application was published in the *Texas Register* on November 14, 2006.
5. On December 7, 2006, United filed a motion to intervene and comments in opposition to iBroadband's Application. The motion to intervene was granted on December 19, 2006.

6. On March 8, 2007, the Commission referred iBroadband's Application to the State Office of Administrative Hearings (SOAH) for assignment of an Administrative Law Judge (ALJ) to conduct a hearing on the merits and issue a proposal for decision, if necessary.
7. On March 29, 2007, United and iBroadband resolved their dispute by entering into a jointly filed stipulation and settlement agreement. Concurrent with the filing of the stipulation and settlement agreement, United withdrew its intervention and opposition to iBroadband's Application.
8. On April 20, 2007, iBroadband amended its Application, which made clear, among other things, that it seeks designation as an ETC and ETP throughout the United study area and to delete its request for designation as an ETC or ETP within any portion of the AT&T Texas and Verizon study areas. It also identified several facts supporting a conclusion that designation of iBroadband as an ETC and ETP would be in the public interest.

**iBroadband's Designation as an ETC**

9. iBroadband is a common carrier as required by 47 U.S.C. § 214(e)(1) and P.U.C. SUBST. R. 26.418(c) as that term is defined by 47 U.S.C. § 153(10).
10. iBroadband currently offers and upon designation as an ETC will offer the following services supported by the FUSF:
  - (a) voice grade access to the public switched network;
  - (b) local usage;
  - (c) dual tone multi-frequency signaling or its functional equivalent;
  - (d) single party service or its functional equivalent;
  - (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.
11. iBroadband offers Lifeline Service to qualifying low income consumers and toll limitation services.

12. iBroadband currently offers the services referred to in Findings of Fact Nos. 10 and 11 through a combination of its own facilities and resale of United's services.
13. iBroadband commits to advertise the availability of and charges for the services referred to in Findings of Fact Nos. 10 and 11 through means of advertising that constitute media of general distribution.
14. Notice of the Application was provided as required by P.U.C. SUBST. R. 26.418(g).
15. iBroadband commits to making the services referred to in Findings of Fact Nos. 10 and 11 available throughout the entirety of United's study area.
16. The United study area is classified as a rural service area.
17. iBroadband demonstrated that granting its Application is in the public interest by showing that the improvements in service clearly outweigh any risk that could result from approval of the Application. iBroadband also demonstrated that it has improved service to the public, including: (a) its network passes areas that no other wireline network, including the United network, passes; (b) it voluntarily provides a \$2 per month discount to customers living within the footprint of the iBroadband network who are over 65 years of age; (c) it provides not only local exchange service but also offers high speed fixed wireless internet access service in some rural areas of its service territory that do not have access to any other fixed broadband internet offering, including DSL or cable modem service; and (d) it provides back-up power capability which exceeds Commission requirements.
18. Granting iBroadband ETC status will not increase the size of support drawn from the FUSF since approval of the Application will merely allow iBroadband to collect the FUSF support payments that previously went to CVC rather than requiring additional FUSF finding.

**iBroadband's Designation as an ETP**

19. iBroadband is a telecommunications provider as that term is used in P.U.C. SUBST. R. 26.417 because it holds a Service Provider Certificate of Operating Authority.

20. iBroadband requested that P.U.C. SUBST. R. 26.417(c)(1)(A), which requires that carriers applying for ETP status show that they have been granted ETC status for federal universal service support pursuant to 47 U.S.C. § 214(e), be waived so that ETP and ETC designations may be handled concurrently as a consolidated docket.
21. iBroadband currently provides and will provide each of the following services:
- (a) flat rate, single party residential and business local exchange telephone service, including primary directory listings;
  - (b) tone dialing service;
  - (c) access to operator service;
  - (d) access to directory assistance services;
  - (e) access to 911 service where provided by a local authority;
  - (f) dual party relay service;
  - (g) the availability to report service problems seven days a week;
  - (h) availability of an annual local directory;
  - (i) access to toll services; and
  - (j) Lifeline and Link Up services.
22. iBroadband currently provides and will provide each of the services referred to in Finding of Fact No. 21 throughout the study area of United, a Texas High Cost Universal Service Plan (THCUSP) service area, using a combination of its own facilities and resale of United's services.
23. iBroadband commits to provide continuous and adequate service in compliance with the quality of service standards defined and codified in P.U.C. SUBST. R. 26.52 - 26.54, as required by P.U.C. SUBST. R. 26.417(c)(1)(D).
24. iBroadband demonstrated its commitment to meet the requirement that it offer basic local telecommunications service at a rate not to exceed 150% of United's tariffed rate.
25. iBroadband committed to provide basic local telecommunications service to any requesting customer located in the United study area.
26. Notice of the Application was provided as required by P.U.C. SUBST. R. 26.417(f)(1)(A).

27. By committing to advertise the availability of and charges for supported services on its website and in 15 specified newspapers published inside the United service area, iBroadband demonstrated its commitment to advertise the availability of and charges for supported services using media of general distribution.
28. iBroadband demonstrated that approval of its application is in the public interest by showing that the improvements in service outweigh any risk that could result from approving the Application. iBroadband also demonstrated that it has improved service to the public in several regards, including: (a) its network passes areas that no other wireline network, including the United network, passes; (b) it voluntarily provides a \$2 per month discount to customers living within the footprint of the iBroadband network who are over 65 years of age; (c) it provides not only local exchange service but also offers high speed fixed wireless internet access service in some rural areas of its service territory that do not have access to any other fixed broadband internet offering, including DSL or cable modem service; and (d) it provides back-up power capability which exceeds Commission requirements.
29. Granting iBroadband ETP status will not increase the size of the TUSF since approval of the application will merely allow iBroadband to collect the USF support payments that previously went to CVC rather than requiring additional USF funding.

### **III. Conclusions of Law**

1. The Commission has jurisdiction over this docket pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 214(e), and §§ 52.001 *et seq.* of PURA.
2. The notice provided in this docket complies with P.U.C. PROC. R. 22.54 and P.U.C. SUBST. R. 26.417(f)(1) and 26.418(g)(1).
3. This proceeding was processed in accordance with the requirements of PURA and the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.001-2001.902 (Vernon 2000 and Supp. 2006).

4. The designation of a telecommunications provider as an ETC is the responsibility of the Commission consistent with 47 C.F.R. § 54.201(b).
5. Only carriers designated as ETCs are eligible for FUSF support consistent with 47 C.F.R. § 54.201(a).
6. Only providers designated as ETPs are eligible for TUSF support.
7. Designation as an ETC is contingent upon a finding that the carrier satisfies the requirements of 47 C.F.R. § 54.201(d); P.U.C. SUBST. R. 26.418 incorporates the federal requirements for ETC designation.
8. Designation as an ETP is contingent upon a finding that the carrier satisfies the requirements of P.U.C. SUBST. R. 26.417(a) and (c).
9. Based upon Findings of Fact Nos. 9 through 29, iBroadband satisfies the federal and state requirements for designation as an ETC and as an ETP.
10. Although designation as an ETP is contingent on a finding that the telecommunications provider is designated an ETC, the Commission has held that the administrative streamlining mandate reflected in the aggressive timetables set forth in P.U.C. SUBST. R. 26.417(f) and 26.418(g) requires that these and future such applications move forward simultaneously.

#### IV. Ordering Paragraphs

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

1. iBroadband's Application for ETC and ETP designation is approved.
2. The entry of an order consistent with the Agreement does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Agreement.

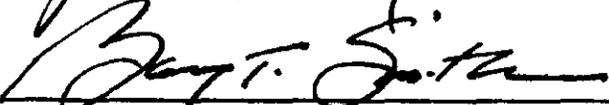
- Neither should the entry of an order consistent with the Agreement be regarded as binding precedent as to the appropriateness of any principle that may underlie the Agreement.
3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the 11<sup>th</sup> day of June 2007.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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PAUL HUDSON, CHAIRMAN

  
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JULIE PARSLEY, COMMISSIONER

  
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BARRY T. SMITHERMAN, COMMISSIONER