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DOCKET NO. 34881

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PUBLIC UTILITY COMMISSION
OF TEXAS

APPLICATION OF EXPRESS CASH AND §
PHONE, INC. D/B/A TALK NOW TELCO §
FOR DESIGNATION AS AN ELIGIBLE §
TELECOMMUNICATIONS CARRIER §
AND ELIGIBLE §
TELECOMMUNICATIONS PROVIDER §

PUBLIC UTILITY COMMISSION
OF TEXAS

**ORDER NO. 3
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
ELIGIBLE TELECOMMUNICATIONS PROVIDER**

Procedural History

On October 8, 2007, Express Cash and Phone, Inc. d/b/a Talk Now Telco (Talk Now Telco or Applicant) filed an application for designation as an eligible telecommunications carrier (ETC) pursuant to P.U.C. SUBST. R. 26.418, as well as designation as an eligible telecommunications provider (ETP) pursuant to P.U.C. SUBST. R. 26.417.

The Commission issued Order No. 1 in this proceeding, which established a procedural schedule including deadlines for comment, motions to intervene, and publication of notice in the *Texas Register*. Notice was published in the *Texas Register* on October 26, 2007. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(i) and 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later. Therefore, the earliest effective date for this proceeding is November 26, 2007.

No objection, comment, or motions to intervene were filed, and no hearing was requested. P.U.C. SUBST. R. 26.417(f)(2)(A) and 26.418(g)(2)(A) provide that applications for ETC/ETP designation may be reviewed administratively.

On November 20, 2007, Commission Staff (Staff) filed a recommendation for approval of ETC and ETP status for Talk Now Telco based on the following:

Designation as Eligible Telecommunications Carrier

To qualify for ETC status, a carrier must meet four conditions:¹

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA '96), Section 3(10).
2. The carrier must offer the following services (requisite services),² using its own facilities or a combination of its own facilities and the resale of another carrier's services:³
 - (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, including such services as 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance;
 - (i) toll blocking for qualifying low income customers, and
 - (j) toll control for qualifying low-income customers,
3. The carrier must advertise the availability of and charges for the requisite services in a media of general distribution.⁴
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁵

Talk Now Telco meets all of the above criteria. Talk Now Telco will advertise the designated services and their rates through notices using media of general distribution. Specifically regarding its offering of services using its own facilities or a combination of its own facilities and the resale of another

¹ 47 C.F.R. § 54.201(b)-(d) (2001).

² 47 C.F.R. § 54.101 (2001).

³ 47 C.F.R. § 54.201 (2001).

⁴ *Id.*

⁵ 47 C.F.R. § 54.405 (2001).

carrier's services, Talk Now Telco will use local loop and cross-connect Unbundled Network Elements (UNEs), and will use its own or leased softswitches and other facilities to provide service. Talk Now Telco will offer Lifeline Service to qualifying customers in compliance with 47 C.F.R. Part 54, Subpart E, and consistent with P.U.C. SUBST. R. 26.412.

Talk Now Telco has not requested any waivers of Federal Communications Commission requirements. Talk Now Telco commits to offer toll limitation services in accordance with 47 C.F.R. §§ 54.400 and 54.401.

AT&T serves the various wire centers for which Talk Now Telco requests USF support. AT&T is not a rural incumbent local exchange carrier.

Staff's analysis of the application stated that Talk Now Telco meets all requirements established by the FCC for designation as an ETC.

Designation as Eligible Telecommunications Provider

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETC status to meet the definition of a telecommunications provider as defined in P.U.C. SUBST. R. 26.5. Talk Now Telco meets the definition.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to FTA § 214(e). ETC and ETP designations are being handled concurrently in this consolidated docket.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the small or rural incumbent local exchange carrier (ILEC) service area in which they propose to be an ETP. Talk Now Telco seeks designation in the Texas High Cost Universal Service Plan (THCUSP) service area of AT&T Texas, specifically the wire centers listed in Exhibit 1 of its application.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants for ETP status show that they offer the designated services defined in P.U.C. SUBST. R. 26.403 throughout the THCUSP or small and rural ILEC service area for which the carriers seek ETP status. The designated services required for ETP status are:

1. flat rate, single party residential and business local exchange telephone service, including primary directory listings;
2. tone dialing service;
3. access to operator services;
4. access to directory assistance services;
5. access to 911 service when provided by local authority;
6. dual party relay service;
7. ability to report service problems seven days a week;
8. availability of annual local directory;
9. access to toll services; and
10. lifeline and link up services.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) also requires the applicant to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer. Talk Now Telco stated that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers in the THCUSP service area for which its seeks designation.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires the applicants show they offer the designated services through a means other than total service resale. Talk Now Telco will use the local loop and cross-connect UNEs, and will use its own or leased softswitches and other facilities to provide service.

P.U.C. SUBST. R. 26.417(d)(2) provides that the Commission may designate an additional ETP in a small or rural ILEC study area if it is in the public interest. AT&T Texas is not a small or rural ILEC.

Talk Now Telco has also committed to offering the required designated services at a rate not to exceed 150 percent of the ILEC's tariffed rate in the requested ETP designation areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Staff's analysis of the application concluded that Talk Now Telco meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

Ordering Paragraph

Having met all of the above ETC and ETP criteria, Staff recommended that Talk Now Telco be granted ETC and ETP designation for the wire centers listed in Exhibit 1 of its application, effective November 26, 2007.

SIGNED AT AUSTIN, TEXAS the 26th day of November 2007.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE