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DOCKET NO. 35102

APPLICATION OF VTX TELECOM, L.P. § PUBLIC UTILITY COMMISSION  
FOR DESIGNATION AS AN ELIGIBLE §  
TELECOMMUNICATIONS CARRIER § OF TEXAS  
AND AS AN ELIGIBLE §  
TELECOMMUNICATIONS PROVIDER §

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

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*Procedural History*

On December 11, 2007, VTX Telecom, L.P. (VTX) filed an application for designation as an eligible telecommunications carrier (ETC) pursuant to P.U.C. SUBST. R. 26.418, and designation as an eligible telecommunications provider (ETP), pursuant to P.U.C. SUBST. R. 26.417. VTX seeks ETC and ETP designations in the Dilley exchange of GTE Southwest, Inc. d/b/a Verizon Southwest. On December 19, 2007, VTX filed an amended application to correct an error in its response in the ETP application.

On December 12, 2007, the Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and published notice in the *Texas Register*. Notice was published in the *Texas Register* on December 21, 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 January 21, 2008.

On December 20, 2007, Order No. 2 was issued deeming the application sufficient for further processing, and that P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) be waived so that the applications may be processed simultaneously.

P.U.C. SUBST. R. 26.417(f)(2)(A) and 23.418(g)(2)(A) provide that applications for ETC/ETP designation may be reviewed administratively.

On January 17, 2008, Commission Staff (Staff) filed a recommendation for approval of ETC and ETP status for VTX based on the following:

***Designation as Eligible Telecommunications Carrier***

To qualify for ETC status, a carrier must meet the following criteria:<sup>1</sup>

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),<sup>2</sup> using its own facilities or a combination of its own facilities and the resale of another carrier's services:<sup>3</sup>
  - (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.<sup>4</sup>
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.<sup>5</sup>

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<sup>1</sup> 47 C.F.R. § 54.201(b)-(d).

<sup>2</sup> 47 C.F.R. § 54.101.

<sup>3</sup> 47 C.F.R. § 54.201.

<sup>4</sup> *Id.*

<sup>5</sup> 47 C.F.R. § 54.405.

VTX meets all of the above criteria. VTX 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 carrier's services, VTX will use its own local loops and cross-connect Unbundled Network Elements (UNE's), and will use its own digital switching facilities or leased facilities to provide service. VTX 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.

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

Staff's analysis of the application concluded that VTX 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 ETP status to meet the definition of a telecommunications provider as defined in P.U.C. SUBST. R. 26.5. VTX 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 U.S.C. § 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 ILEC service area in which they propose to be an ETP. NTS seeks designation in the study areas of the rural ILEC GTE Southwest, Inc. d/b/a Verizon Southwest.

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 Texas High Cost Universal Service Plan (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. VTX 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 it 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. VTX will use its own facilities and, in limited instances, UNE's and other providers' leased facilities.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants show that they have offered continuous service that meets the quality of service standards in P.U.C. SUBST. R. 26.52 -26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. VTX meets these requirements. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. VTX meets this requirement.

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. Verizon is not a small or rural ILEC.

VTX 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).

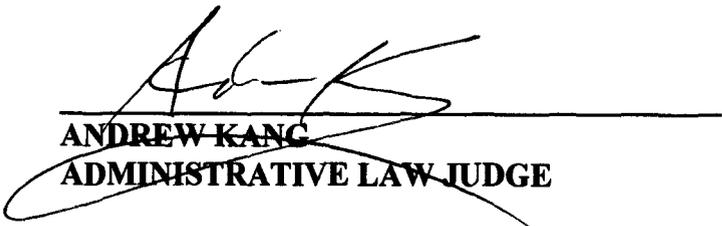
Staff's analysis of the application concluded that VTX meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

***Ordering Paragraph***

Having met all of the above ETC and ETP criteria, Staff recommended that VTX be granted ETC and ETP designation in the Dilley exchange of GTE Southwest, Inc. d/b/a Verizon Southwest effective January 21, 2008.

SIGNED AT AUSTIN, TEXAS the 18<sup>th</sup> day of January 2008.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**ANDREW KANG**  
**ADMINISTRATIVE LAW JUDGE**