



Control Number: 35252



Item Number: 9

Addendum StartPage: 0

DOCKET NO. 35252

APPLICATION OF TEXAS RSA 7BS, L.P.
D/B/A PEOPLES WIRELESS SERVICES
FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

2008 MAR 10 AM 10:11

RECEIVED

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

Procedural History

On January 18, 2008, Texas RSA 7BS, L.P. d/b/a Peoples Wireless Services (Peoples Wireless) filed an application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. Pursuant to 47 U.S.C. § 214(e), the Commission, either upon its own motion or upon request, shall designate qualifying common carriers as ETCs for service areas set forth by the Public Utility Commission of Texas (Commission). Peoples Wireless is requesting ETC designation in the entire study area of the rural telephone company of Peoples Telephone Cooperative, Inc., which is comprised of the exchanges of Ben Franklin, Campbell, Cypress Spring, Dry Creek, Glade Branch, Golden, Jim Hogg, Pecan Gap, Roxton, Sandy Creek, Talco, Wynee, and Yantis, and has provided with its application a map of the territory it intends to serve.

On January 24, 2008, the Commission issued Order No. 1 in this proceeding which established an effective date, a deadline for intervention and advised of *Texas Register* publication. Notice was published in the *Texas Register* on February 8, 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. 26.418(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 March 10, 2008.

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

On March 4, 2008, Commission Staff (Staff) filed a recommendation for approval of ETC status for Peoples Wireless 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; and
 - (i) toll limitation 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 company must provide Lifeline and Link Up support.⁵

Peoples Wireless meets all of the above criteria. Peoples Wireless will advertise the designated services and their rates through notices using media of general distribution. Peoples Wireless will provide the required services either using its own facilities or a combination of its own facilities and through mutual sharing arrangements with other carriers. Peoples Wireless provided a proposed Lifeline and Link Up tariff in its application.

Peoples Wireless has not requested any waivers of the FCC requirements.

¹ 47 C.F.R. § 54.201(b)-(d).

² 47 C.F.R. § 54.101.

³ 47 C.F.R. § 54.201.

⁴ *Id.*

⁵ 47 C.F.R. § 54.405.

Peoples Telephone Cooperative, Inc. is a rural incumbent local exchange carrier that serves the exchanges for which Peoples Wireless requests USF support. 47 C.F.R. § 54.201(c) states:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (D) of this section.

The Commission has declined to adopt specific public interest criteria in rural ETC designation proceedings, but has required "...that an applicant demonstrate that its designation is of material benefit above and beyond the *status quo* of its existing operations in the requested areas."⁶ The Commission recommended in *Nextel* that with regard to the public interest evaluation, applicants provide detail on the following issues: (1) service offerings, including additional service offerings for the proposed ETC designation areas, (2) additional service quality commitments, (3) detailed coverage areas, (4) continuation of service commitments, such as back-up power capability, and (5) consumer protection standards, and (6) information regarding how the company will better serve the consumer if granted designation.⁷

⁶ *Application of NPCR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation*, Docket No. 27709, Final Order at 9 (Jun. 30, 2004) (Nextel).

⁷ *Id.*

Peoples Wireless has provided a map of its service area and has committed itself to serve any customer within its area. Peoples Wireless will provide Phase 1 E911 to 100 percent of the company's customers. No Public Safety Answering Point has requested Phase II service at this time, but Peoples Wireless plans to use universal service support to offer the Phase II E911 when requested. Finally, Peoples Wireless' application addressed the Commission's request for competitive carriers entering rural areas to provide service that enhances or exceeds existing telecommunications service. Peoples Wireless stated its intention to provide new services in the designated areas, to deploy equipment to support data transmission services throughout the area, to provide continued maintenance of the network, including battery back-up of its cell sites and to deploy back-up power generators to all of its cellular tower sites, if granted ETC designation.

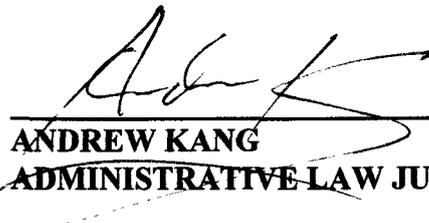
Staff concluded that Peoples Wireless' application is in the public interest.

Ordering Paragraph

In accordance with Staff's recommendation and for all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, Peoples Wireless' application for ETC designation is **APPROVED**, as amended, effective March 10, 2008. Peoples Wireless is granted ETC status in the entire study area of the rural telephone company of Peoples Telephone Cooperative, Inc., which is comprised of the exchanges of Ben Franklin, Campbell, Cypress Spring, Dry Creek, Glade Branch, Golden, Jim Hogg, Pecan Gap, Roxton, Sandy Creek, Talco, Wynee, and Yantis.

SIGNED AT AUSTIN, TEXAS the 10th day of March 2008.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE