

Barry T. Smitherman
Chairman

Julie Caruthers Parsley
Commissioner

Paul Hudson
Commissioner

W. Lane Lanford
Executive Director



Public Utility Commission of Texas

Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D.C. 20554

Karen Majher - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2000 L. Street, NW - Suite 200
Washington, D.C. 20036

July 30, 2008

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

TPUC Docket No. 24481- Designation of Common Carriers as Eligible Telecommunications Carrier to receive Federal Universal Funds Pursuant to the Federal Communications Commission's Fourteenth Report and Order Adopting A State Certification Process

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

TPUC Docket No. 35562 – Application of Quality Telephone, for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider

ETC Designation of Quality Telephone

On 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 Quality Telephone. The attached *Order No. 3*, Docket No. 35562, effective July 30, 2008, grants Quality Telephone ETC designation in the local exchanges of Southwestern Bell Telephone

Company d/b/a AT&T Texas (AT&T Texas), and Verizon Southwest (Verizon). AT&T Texas and Verizon are non-rural incumbent local exchange carriers (ILEC).

If you require any additional information please call Shawnee Claiborn-Pinto at (512)-936-7388.

Sincerely,

A handwritten signature in cursive script that reads "Shawnee Claiborn-Pinto". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Shawnee Claiborn-Pinto
Sr. Retail Market Analyst
Competitive Markets Division
Public Utility Commission of Texas

cc: attachments

P:\TUSF\ETC-ETP Cases\35562-Quality ETC-ETP \355626 QualityFCCUSACletterdesignation.doc

DOCKET NO. 35562

APPLICATION OF QUALITY	§	PUBLIC UTILITY COMMISSION
TELEPHONE FOR DESIGNATION AS AN	§	
ELIGIBLE TELECOMMUNICATIONS	§	OF TEXAS
CARRIER AND AN ELIGIBLE	§	
TELECOMMUNICATIONS PROVIDER	§	

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

2008 JUL 21 AM 11:04

Procedural History

On April 11, 2008, Quality Telephone (Quality) filed a combined 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, as well as designation as an eligible telecommunications provider (ETP) pursuant to P.U.C. SUBST. R. 26.417. Quality also requested a waiver of P.U.C. SUBST. R. 26.417(c)(1)(A) so that its ETP application could be processed at the same time as its ETC application. 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 Commission. Quality is a common carrier as defined in 47 U.S.C. §153(10) and a telecommunications provider as defined in PURA § 51.002(10). Quality operates under Service Provider Certificate of Operating Authority No. 60384, and provides telecommunications services from unbundled network elements (UNE) that it leases from various incumbent providers. Quality is requesting ETP/ETC designation in the local exchanges of Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas), and Verizon Southwest (Verizon). AT&T Texas and Verizon are non-rural incumbent local exchange carriers (ILECs).

On April 25, 2008, Commission Staff (Staff) found the application insufficient for further review. On May 6, 2008, Quality filed an amended application removing the study areas of Embarq and Consolidated Communications. On June 17, 2008, Staff noted several additional deficiencies in the amended application, and on June 18, 2008, Order No. 4 was issued allowing

Quality until July 1, 2008, to cure the additional deficiencies. Quality filed a second revised application on June 20, 2008.

On June 30, 2008, Staff stated that it found Quality's amended application to be sufficient for ETC and ETP designation review. Staff also recommended waiver of P.U.C. SUBST. R. 26.4417(f)(1)(B)(i)(II) so that the applications could be processed simultaneously. Based on Staff's recommendation, the application was deemed sufficient and P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) was waived.

Texas Register notice was filed in this proceeding on May 2, 2008, establishing an intervention deadline of May 20, 2008. Staff received comments from Consolidated Communications of Fort Bend and Consolidated Communications of Texas which were addressed by Quality in its amended application filed on May 6, 2008, removing the study areas of Embarq and Consolidated. No party requested intervention. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(ii) the effective date shall be no earlier than 30 days after the filing of a sufficient application with substantially complete information as required by the Presiding Officer, or July 30, 2008.

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 July 14, 2008, Commission Staff (Staff) filed a recommendation for approval of ETC and ETP status for Quality 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).

¹ 47 C.F.R. § 54.201(b)-(d) (2007).

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 blocking for qualifying low income customers⁴ 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.⁵
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.⁶

Quality meets all of the above criteria. Quality will advertise the designated services and their rates through notices using media of general distribution. Quality will provide service by using local loop and switch port equipment which it currently leases from AT&T Texas and Verizon as UNEs. Quality 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.

Quality has not requested any waivers of FCC requirements. Quality commits to offer toll limitation services in accordance with 47 C.F.R. §§ 54.400 and 54.401.

² 47 C.F.R. § 54.101 (2007).

³ 47 C.F.R. § 54.201 (2007).

⁴ Pursuant to FTA § 54.400(d), the FCC defines "toll limitation" as either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both service.

⁵ *Id.*

⁶ 47 C.F.R. § 54.405 (2007).

AT&T Texas and Verizon serve the exchanges for which Quality requests USF support. AT&T Texas and Verizon are non-rural ILEC's

Designation as Eligible Telecommunications Provider

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to meet the definition of a local exchange carrier as defined in P.U.C. SUBST. R. 26.5. Quality meets this 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). ETP and ETC 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. Quality seeks designation in the Texas High Cost Universal Service Plan (THCUSP) service area of AT&T Texas, and Verizon as delineated in the amendment to the application filed on June 20, 2008.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants for ETP status to 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 areas for which the carriers seek ETP status. The designated services required for ETP status are:⁷

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;

⁷ P.U.C. SUBST. R. 26.403(d)(1) Texas High Cost Universal Service Plan (THCUSP).

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. Quality states 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 that applicants show they offer the designated services through a means other than total service resale. Quality will provide the service through UNEs that it leases from AT&T Texas and Verizon.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to 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. Quality attests that it will meet 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. Quality stated that it will meet 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. Neither AT&T Texas nor Verizon are small or rural ILECs.

Quality 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 same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

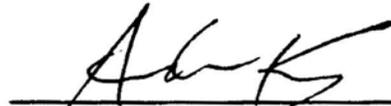
Staff's analysis of the application concludes that Quality meets the requirements established in P.U.C. SUBST. R. 26.417 for designation as an ETP.

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, Quality's application for ETC designation is **APPROVED**, as amended, effective July 30, 2008. Pursuant to P.U.C. SUBST. R. 26.417, Quality's application for ETP designation is **APPROVED**, as amended, effective July 30, 2008.

SIGNED AT AUSTIN, TEXAS the 21st day of July 2008.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE