

**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Rolando Pablos**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Rick Perry**  
Governor

## *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

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

July 5, 2012

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

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

**PUCT Docket No. 40410 - *Application of Texas 10, LLC d/b/a Cellular One for Designation as an Eligible Telecommunications Carrier in the State of Texas for the Purpose of Establishing Eligibility to Participate in the Mobility Fund Phase 1 Auction on September 27, 2012 at the Federal Communications Commission***

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### **Conditional ETC Designation of Texas 10 d/b/a Cellular One, LLC**

Pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. §§ 54.201 – 54.203, the Public Utility Commission of Texas (PUCT) has granted a conditional eligible telecommunications carrier (ETC) designation to Texas 10, LLC d/b/a Cellular One (Cellular One or the Company) for the purpose of establishing eligibility to participate in the Mobility Fund Phase 1 auction at the Federal Communications Commission (FCC) that is to be held on September 27, 2012. PUCT Order No. 3, *Notice of Approval for Designation as an Eligible Telecommunications Carrier*, (attached hereto as Exhibit A), issued on July 2, 2012, in Docket No. 40410, grants Cellular One ETC

designation in all the study/service areas that were listed in Exhibit 4 of its application (attached hereto as Exhibit B). Because Cellular One sought ETC designation conditioned upon being the successful bidder to serve all the census blocks in Texas that are included in the Mobility Fund Phase 1 auction, the Company is not required at this time to file certain documentation such as maps that show where the Company has spectrum in each of the census blocks, a five-year plan, or demonstration of compliance with all Lifeline rules and orders, until it has been notified by the FCC that it is the successful bidder in the Mobility Fund Phase 1 auction. Should Cellular One be the successful bidder in the auction, it is required to file within 30 days, in PUCT in Docket No. 40410, the information listed in PUCT Order No. 3, *Notice of Approval for Designation as an Eligible Telecommunications Carrier*. If Cellular One is unsuccessful, it shall accordingly notify the PUCT within 30 days of the Mobility Fund Phase 1 auction and the PUCT will issue an order nullifying this conditional ETC designation granted to Cellular One.

Also attached for your information is the affidavit of Mr. Jonathan D. Foxman, President of Cellular One (attached hereto as Exhibit C), which attests to the company's intent to use the federal support only for the intended purpose, consistent with § 254(e) of the Federal Telecommunications Act, and for provision of the designated services required by 47 C.F.R. § 54.101. The PUCT submits this letter as certification that all federal mobility fund support provided to Cellular One will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

If you require any additional information please contact me at (512)-936-7390.

Sincerely,



Liz Kayser, Market Economist  
Competitive Markets Division  
Texas Public Utility Commission  
liz.kayser@puc.texas.gov

cc: attachments

## **Exhibit A**

### ***Final Order Granting ETC Designation***

DOCKET NO. 40410

APPLICATION OF TX-10, LLC D/B/A § PUBLIC UTILITY COMMISSION  
CELLULAR ONE FOR DESIGNATION §  
AS AN ELIGIBLE § OF TEXAS  
TELECOMMUNICATIONS CARRIER §  
IN THE STATE OF TEXAS FOR THE §  
PURPOSE OF ESTABLISHING §  
ELIGIBILITY TO PARTICIPATE IN §  
THE MOBILITY FUND PHASE I §  
AUCTION ON SEPTEMBER 27, 2012 AT §  
THE FEDERAL COMMUNICATIONS §  
COMMISSION §

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

I. Procedural History

On May 21, 2012, Texas 10, LLC d/b/a Cellular One<sup>1</sup> (Cellular One or the Company) filed with the Public Utility Commission (Commission) 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 for purposes of establishing eligibility to participate in the Mobility Fund Phase I auction at the Federal Communications Commission (FCC) that is scheduled to be held on September 27, 2012. No parties sought intervention in this proceeding.

The FCC, in its *USF/ICC Transformation Order*,<sup>2</sup> established for the first time a universal service support mechanism dedicated exclusively to mobile service, the “Mobility Fund.” Phase I of the Mobility Fund will provide up to \$300 million in one-time support to

<sup>1</sup> On June 14, 2012, Applicant notified the Commission that it had inadvertently filed the application using the informal abbreviation of the company’s name “TX-10” rather than its official name “Texas 10.” The Company requested that the order approving conditional ETC designation use the company’s official name Texas 10 LLC d/b/a Cellular One.

<sup>2</sup> *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 0951, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Reform — Mobility*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*).

“immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas.”<sup>3</sup> As part of the FCC’s criteria for Mobility Fund eligibility, a carrier must be designated as an ETC at the time it files its short-form application for participation in a spectrum auction 90 days prior to the start of the auction. The FCC stated that “it is sufficient for purposes of an application to participate in the Mobility Fund Phase I auction that the applicant has received its ETC designation conditioned only upon receiving Mobility Fund Phase I support.”<sup>4</sup> Cellular One seeks ETC designation only for purposes of eligibility to participate in the Mobility Fund Phase I auction and does not seek ETC designation for purposes of legacy high cost funding or any state ETP designation. Cellular One stated that if it does not win support at the auction, then Cellular One’s ETC designation in Texas would be null and without effect.

On May 22, 2012, 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 June 1, 2012. 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.

On May 29, 2012, the Applicant filed an amendment to the application clarifying its intent to only seek designation as an ETC for the purpose of establishing eligibility to participate in the Mobility Fund Phase I auction. Exhibit 4 of the application lists all of the study/service areas for which Applicant seeks ETC designation conditioned on its winning the auction to serve certain census blocks in the Mobility Fund Phase I auction. The study/service areas include both rural and non-rural ILECs. The Company seeks conditional ETC designation to serve all the census blocks in Texas that the FCC will designate as eligible for bidding in the Mobility Fund Phase I auction.

On June 26, 2012, Commission Staff filed its final recommendation recommending approval of the application for ETC status conditioned upon Cellular One receiving Mobility Fund Phase I support in certain census blocks in Texas based on the following criteria.

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<sup>3</sup> *Id.* at paragraph 28.

<sup>4</sup> See *USF/ICC Transformation Order* para. 319 n.665.

## II. Designation as Eligible Telecommunications Carrier (ETC)

To qualify for ETC status, a carrier must meet the following criteria:<sup>5</sup>

1. The carrier must be a common carrier as that term is defined by 47 U.S.C. § 153(10).
2. The carrier must offer the following voice telephony services<sup>6</sup> using its own facilities or a combination of its own facilities and the resale of another carrier's services:<sup>7</sup>
  - (a) voice grade access to the public switched network or its functional equivalent;
  - (b) minutes of use for local service provided at no additional charge to end users;
  - (c) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and
  - (d) toll limitation for qualifying low income customers.
3. The carrier must advertise the availability of the above services and charges for the services in a media of general distribution.<sup>8</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>9</sup>

The Applicant meets all of the requirements for ETC designation. In addition, the Applicant commits to meeting all additional ETC requirements listed in 47 C.F.R. § 54.202(a)(1)(i).

Commission Staff further recommended that upon selection as the successful bidder in the Mobility Fund Phase I auction, the Applicant should be ordered to fulfill certain conditions that would have been required and have been required for carriers seeking ETC designation. Because Cellular One requested ETC designation conditioned on successfully bidding in the Mobility

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<sup>5</sup> 47 C.F.R. § 54.201(b)-(d).

<sup>6</sup> 47 C.F.R. § 54.101.

<sup>7</sup> 47 C.F.R. § 54.201.

<sup>8</sup> 47 C.F.R. § 54.201.

<sup>9</sup> 47 C.F.R. § 54.405.

Fund Phase I auction and the FCC has not yet identified the census blocks in Texas available for bids, the Company was not required to file such information with its ETC application.

### III. Ordering Paragraphs

In accordance with Commission Staff's recommendation and for the reasons stated therein, pursuant to 47 U.S.C. § 214(e)(2) and P.U.C. SUBST. R. 26.418, the application of Texas 10, LLC d/b/a Cellular One for ETC designation conditioned upon the Company receiving Mobility Fund Phase I support in certain unserved and underserved census blocks in Texas is **APPROVED**.

Additionally, as a condition of this ETC designation, Cellular One shall, within 30 days of winning Mobility Fund Phase I support, file the following information in this docket:

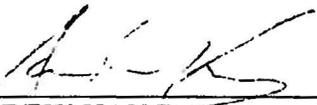
- (1) List of all census blocks in Texas for which the company was the successful bidder in the Mobility Fund Phase I auction;
- (2) Detailed maps for each census block that show (a) the wire center or study area that the census block is located in, (b) where Cellular One has spectrum within that census block, and (c) what customers would be included in the coverage area, with sufficient specificity and detail for any person to make accurate determinations of the same;
- (3) A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Cellular One shall also estimate the area and population that will be served as a result of the improvements;
- (4) Lifeline tariffs that show compliance with 47 C.F.R. Part 54 Subpart E and P.U.C. SUBST. R. 26.412; and
- (5) A plan that shows compliance with the FCC's Lifeline Reform Order and Duplicative Process Order.

If Cellular One does not win support for any census blocks in the Mobility Fund Phase I auction, this conditional ETC designation granted to Cellular One shall be null and without effect. If unsuccessful, Cellular One shall accordingly notify the Commission within 30

days of the Mobility Fund Phase I auction and the Commission will issue an order nullifying this conditional ETC designation granted to Cellular One.

SIGNED AT AUSTIN, TEXAS the 2<sup>nd</sup> day of July 2012.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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

## **Exhibit B**

### ***List of Wire Centers and/or Study Areas***

## EXHIBIT 4

Cellular One Service Area for Purposes of ETC Designation for Mobility Fund  
FCC Designated Census Blocks in the Study Areas of the Following ILECs

Alenco Communications, Inc.,  
AT&T Texas  
Big Bend Telephone Company, Inc.  
Blossom Telephone Company  
Border to Border  
Brazoria Telephone Company  
Brazos Telecommunications, Inc.  
Brazos Telephone Cooperative, Inc.  
Cameron Telephone Company LLC  
Cap Rock Telephone Cooperative, Inc.  
Central Telephone Company of Texas, Inc.  
Central Texas Telephone Cooperative, Inc.  
CenturyTel and all its Texas ILEC affiliates  
Coleman County Telephone Cooperative, Inc.  
Colorado Valley Telephone Cooperative, Inc.  
Community Telephone Company  
Consolidated Communications and its Texas ILEC affiliates  
Contel of Texas, Inc.  
Cumby Telephone Cooperative, Inc.  
Dell Telephone Cooperative, Inc.  
Eastex Telephone Cooperative, Inc.  
Electra Telephone Company, Inc.  
ENMR Telephone Company, Inc.  
ETEX Telephone Cooperative, Inc.  
Five Area Telephone Cooperative, Inc.  
Ganado Telephone Company, Inc.  
Guadalupe Valley Telephone Cooperative, Inc.  
Hill Country Telephone Cooperative, Inc.  
Industry Telephone Company  
LaWard Telephone Exchange, Inc.  
Lake Livingston Telephone Company  
Leaco Rural Telephone Cooperative, Inc.  
Lipan Telephone Company, Inc.  
Livingston Telephone Company  
Mid-Plains Rural Telephone Cooperative, Inc.  
Nortex Communications  
North Texas Telephone Company  
Panhandle Telephone Cooperative, Inc.  
Peoples Telephone Cooperative, Inc.  
Poka Lambro Telephone Cooperative, Inc.  
Riviera Telephone Company, Inc.  
Santa Rosa Telephone Cooperative, Inc.  
South Plains Telephone Cooperative, Inc.  
South Arkansas Telephone Cooperative, Inc.

Southwest Texas Telephone Company  
Tatum Telephone Company  
Taylor Telephone Cooperative, Inc.  
Totelcom Communications, LLC  
United Telephone Company of Texas Inc. and its Texas ILEC affiliates  
Valley Telephone Cooperative, Inc.  
Verizon Southwest and its Texas ILEC affiliates  
Wes-Tex Telephone Cooperative, Inc.  
West Plains Telecommunications, Inc.  
West Texas Rural Telephone Cooperative, Inc.  
Windstream, Inc. and its Texas ILEC affiliates  
XIT Rural Telephone Cooperative, Inc.

**Exhibit C**

*Affidavit*

DOCKET NO. 40410

PETITION OF TX-10, LLC FOR §  
DESIGNATION AS AN ELIGIBLE §  
TELECOMMUNICATIONS CARRIER §  
FOR THE PURPOSE OF §  
ESTABLISHING ELIGIBILITY TO §  
PARTICIPATE IN THE MOBILITY §  
FUND PHASE I AUCTION ON §  
SEPTEMBER 27, 2012 AT THE §  
FEDERAL COMMUNICATIONS §  
COMMISSION AND REQUEST FOR §  
EXPEDITED CONSIDERATION §

PUBLIC UTILITY COMMISSION  
OF TEXAS

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AFFIDAVIT OF COMPLIANCE BY  
TEXAS 10, LLC D/B/A CELLULAR ONE

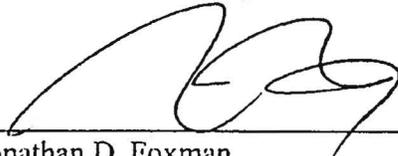
STATE OF PENNSYLVANIA §  
§  
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared Jonathan D. Foxman, of Texas 10, LLC d/b/a Cellular One ("Cellular One" or the "Company"), who on his oath deposed and said:

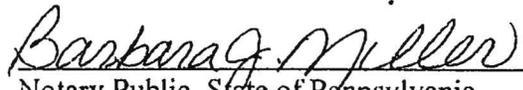
1. "My name is Jonathan D. Foxman, President of Texas 10, LLC d/b/a Cellular One ("Cellular One" or the "Company"). In this position, I am personally familiar with the Federal Universal Service support received by Cellular One and how the Company uses these funds.
2. "Cellular One was designated as an eligible telecommunications carrier ("ETC") by the Public Utility Commission of Texas for the purpose of establishing eligibility to participate in the Mobility Fund Phase I Auction on September 27, 2012 at the Federal Communications Commission. The Order granting the designation in Docket No. 40410 was dated July 2, 2012. The service area includes both rural and non-rural areas. Cellular One's Study Area Code is unassigned.
3. "Any Federal Universal Service support funds received by Cellular One will be used only for the provision, maintenance, and upgrading of facilities for which the support is intended, as designated by the Federal Communications Commission consistent with Section 254(e) of the Federal Telecommunications Act. These

funds will be used to provide the supported services as designated in 47 C.F.R. § 54.101.

4. "The matters addressed above are within my personal knowledge and are true and correct to the best of my knowledge."

  
Jonathan D. Foxman

3<sup>rd</sup> SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this the July day of July, 2012.

  
Notary Public, State of Pennsylvania

Print Name: Barbara J. Miller

My Commission Expires:

5/9/2016

