

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

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 9, 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. 40498 – *Petition of TexNet 4G for Designation as an Eligible Telecommunications Carrier in the State of Texas for the Purposes of Establishing Eligibility to Participate in the Mobility Fund Phase I Auction at the Federal Communications Commission*

Conditional ETC Designation of TexNet 4G, 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 TexNet 4G (TexNet 4G 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. 4, *Notice of Approval for Designation as an Eligible Telecommunications Carrier*, (attached hereto as Exhibit A), issued on July 10, 2012, in Docket No. 40498, grants TexNet 4G designation in all the study/service areas

that were listed in Exhibit B of the second amendment to its application (attached hereto as Exhibit B). Because TexNet 4G 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 TexNet 4G be the successful bidder in the auction, it is required to file within 30 days, in PUCT in Docket No. 40498, the information listed in PUCT Order No. 4, *Notice of Approval for Designation as an Eligible Telecommunications Carrier*. If TexNet 4G 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 TexNet 4G.

Also attached for your information is the affidavit of Mr. Gregory M. Casey, CEO of Texas Energy Network, LLC, parent company of TexNet 4G (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 TexNet 4G 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. 40498

PETITION OF TEXNET 4G FOR §
DESIGNATION AS AN ELIGIBLE §
TELECOMMUNICATIONS CARRIER §
IN THE STATE OF TEXAS FOR THE §
PURPOSES OF ESTABLISHING §
ELIGIBILITY TO PARTICIPATE IN §
THE MOBILITY FUND PHASE I §
AUCTION AND THE MOBILITY FUND §
PHASE II AUCTION AT THE FEDERAL §
COMMUNICATIONS COMMISSION §

PUBLIC UTILITY COMMISSION
OF TEXAS

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FILING CLERK

ORDER NO. 4
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER

I. Procedural History

On June 20, 2012, TexNet 4G (TexNet 4G or the Applicant) 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*,¹ 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 “immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas.”² As part of the FCC’s criteria for Mobility Fund eligibility, a carrier must be

¹ *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*).

² *Id.* at para. 28.

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.”³ TexNet 4G seeks ETC designation only for the 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. TexNet 4G stated that if it is not successful in winning support at the auction, then TexNet 4G’s ETC designation in Texas would be null and without effect.

On June 21, 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 July 6, 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. TexNet 4G requested a waiver of the 30 day review period in order to meet the FCC’s deadline of July 11, 2012 for submission of short-form applications. Order No. 2 granted TexNet 4G’s waiver request and revised the procedural schedule to accommodate a completion date of July 10, 2012 for administrative review of the application.

TexNet 4G filed the following amendments and supplements to the application:

1. On June 21, 2012, TexNet 4G filed the first supplement to its application to supplement Confidential Attachment Exhibit C of the application.
2. On June 22, 2012, TexNet 4G filed the first amendment and second supplement to the application withdrawing its request for conditional designation as an ETC for the purpose of participating in Phase II of the FCC’s Mobility Fund auction.
3. On June 28, 2012, TexNet 4G filed the second amendment to the application resubmitting Exhibit B of the application as a non-confidential document.

³ *USF/ICC Transformation Order* at para. 391 n.665.

4. On July 3, 2012, TexNet 4G filed the third supplement to the application providing an affidavit confirming that TexNet 4G would use any Federal Universal Service Fund support that it receives in compliance with federal rules.
5. On July 6, 2012, TexNet 4G filed an amended third supplement to the application providing a corrected affidavit.

On July 9, 2012, Commission Staff filed its final recommendation recommending approval of the application for ETC status conditioned upon TexNet 4G receiving Mobility Fund Phase I support in certain census blocks in Texas based on the following criteria.

II. Designation as Eligible Telecommunications Carrier (ETC)

To qualify for ETC status, a carrier must meet the following criteria:⁴

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following voice telephony services⁵ using its own facilities or a combination of its own facilities and the resale of another carrier's services:⁶
 - (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.⁷

⁴ 47 C.F.R. § 54.201(b)-(d).

⁵ 47 C.F.R. § 54.101.

⁶ 47 C.F.R. § 54.201.

⁷ 47 C.F.R. § 54.201.

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.⁸

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

Commission Staff further recommended that upon being selected as the successful bidder in the Mobility Fund Phase I auction, the Applicant be ordered to fulfill certain conditions that would have been required and have been required for any carrier seeking ETC designation. Because TexNet 4G is requesting ETC designation conditioned on being the successful bidder in the Mobility Fund Phase I auction and the FCC has not yet identified the census blocks in Texas that are 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 all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, the application of TexNet 4G, as amended and supplemented, 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, TexNet 4G shall, within 30 days of winning Mobility Fund Phase I support, file the following information in a compliance docket established by Staff:

- (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 TexNet 4G has spectrum within that census block, and (c) what customers would be included in the coverage

* 47 C.F.R. § 54.405.

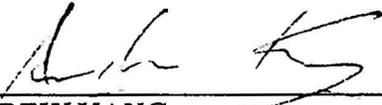
area, with sufficient specificity and detail for any person to make accurate determinations of the same;

- (3) A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. TexNet 4G 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 TexNet 4G is not successful in winning support for any census blocks in the Mobility Fund Phase I auction, this conditional ETC designation granted to TexNet 4G should be null and without effect. If proving unsuccessful, TexNet 4G shall 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.

SIGNED AT AUSTIN, TEXAS the 10th day of July 2012.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE

Exhibit B

List of Wire Centers and/or Study Areas

EXHIBIT B – WIRE CENTERS AND ILECS WITHIN POTENTIAL SERVICE AREA

County	Wire Centers In County
Atascosa	<ol style="list-style-type: none"> 1. SBC- LYTLTXLY (Lytle Tx) 2. Verizon-SMRTTXXA (Somerset Tx) 3. SBC-PTETTXPO (Poteet, Tx) 4. SBC-PLTNTXPL (Pleasanton, Tx) 5. Verizon-JRTNTXXA (Jourdanton, Tx) 6. SBC-CHRLTXXA (Charlotte, Tx) 7. SBC-CHRSTXCH (Christine, Tx) 8. SBC-CMTNTXCB (Campbellton, Tx)
Frio	<ol style="list-style-type: none"> 1. SBC-PRSLTXPS (Pearsall, Tx) 2. VTC-SNMGTXXA (San Miguel, Tx) 3. Verizon-DLLYTXXA (Dilley, Tx) 4. VTC-MLETTXXA (Millett, Tx)
McMullen	<ol style="list-style-type: none"> 1. SBC-CHRSTXCH (Christine, Tx) 2. SBC-CMTNTXCB (Campbellton, Tx) 3. VTC-TLDNTXXA (Tilden, Tx) 4. VTC-FWTNTXXA (Fowlerlon, Tx) 5. -VTC-ANRSTXXA (Annarose, Tx)
LaSalle	<ol style="list-style-type: none"> 1. Verizon-DLLYTXXA (Dilley, Tx) 2. SBC-CTLLTXCO (Cotulla, Tx) 3. VTC-FWTNTXXA (Fowlerlon, Tx) 4. VTC-ARWLTXXA (Artesia Wells, Tx) 5. SBC-ENCLTXEC (Encinal, Tx) 6. Alenco Commcn Inc-MODNTXXA (Modeana, Tx)
Dimmit	<ol style="list-style-type: none"> 1. SBC- CRSPTXCS (Carrizo Springs, Tx) 2. SBC-ASTNTXAS (Asherton, Tx)
Webb	<ol style="list-style-type: none"> 1. Alenco Commcn Inc-DLRSTXXA (Dolores, Tx) 2. SBC-ENCLTXEC (Encinal, Tx) 3. Alenco Commcn Inc-WMRTTXXA (West Marieta, Tx) 4. Alenco Commcn Inc-MODNTXXA (Modeana, Tx) 5. SBC-LARDTXLA (Laredo, Tx) 6. SBC-BRUNTXBR (Bruni, Tx) 7. VTC-MRCYTXXA (Miranda City, Tx)

Exhibit C

Affidavit

EXHIBIT A: AFFIDAVIT

STATE OF TEXAS

COUNTY OF HARRIS

AFFIDAVIT

Before me, the undersigned authority, appeared Gregory M. Casey, who upon his oath deposed and said:

1. I am CEO of Texas Energy Network, LLC, the parent company of TexNet 4G. In this position I am familiar with the Company's service offerings and the terms and conditions under which it provides service, and the facts stated herein are based on my personal knowledge and belief.
2. All federal Universal Service Fund support that TexNet 4G receives will be used for the provision, maintenance, and upgrading of facilities and services for which the support is intended according to federal rules and law.
3. The statements contained in the Petition of TexNet 4G for Designation as an Eligible Telecommunications Carrier for the Purposes 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 filed at the *Public Utility Commission of Texas under Docket No. 40498*, as supplemented and amended, are true and correct.
4. I am over eighteen years of age and competent to make this affidavit.



Gregory M. Casey, CEO

SUBSCRIBED AND SWORN to before me, the undersigned authority on this 5th day of July, 2012.



Notary Public

My Commission Expires on 7-20-15

