

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for designation as eligible
telecommunications carrier (ETC) by Knology
of Florida, Inc. DOCKET NO. 041302-TX
ORDER NO. PSC-05-0324-PAA-TX
ISSUED: March 21, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING KNOLOGY OF FLORIDA, INC.'S PETITION
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

On November 12, 2005, Knology of Florida, Inc. (Knology) petitioned the Florida Public Service Commission (FPSC or Commission) for designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida. Specifically, Knology requested that it be granted ETC status in the non-rural BellSouth Telecommunications, Inc. (BellSouth) exchanges of Panama City, Panama City Beach and Lynn Haven in Bay County. Additionally, Knology is requesting ETC status in the non-rural Verizon-Florida Inc. (Verizon) exchanges, which include Clearwater, St. Petersburg and Dunedin in Pinellas County. This is the first Competitive Local Exchange Carrier (CLEC) ETC petition to be brought before this Commission for consideration.

Knology is a certificated CLEC that provides video, voice, data and advanced communications services to residential and business customers in nine markets in the Southeastern United States. According to Knology, as of December 31, 2003, its network had been made available to approximately 737,000 homes, and had approximately 382,000 total connections (voice, video and data connections counted separately). Knology provides services over its own fully upgraded 750 MHz interactive broadband network. The network is designed with sufficient capacity to meet the growing demand for high-speed and high-bandwidth video, voice and data services, as well as the introduction of new communications services.

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FPSC-COMMISSION CLERK

In 1998, Knology entered the Panama City market by purchasing Beach Cable and investing approximately \$50 million in its Panama City telecommunication services. It has offered bundled services for the last six years providing a full suite of video, voice and data services.

Knology also offers video and data services in Pinellas County, Florida and has begun to enhance its present system in order to provide voice services to that market. Knology recently purchased the video assets of Verizon in Pinellas County and is upgrading this system to provide voice, video and data. This acquisition provides Knology with an opportunity to market its services to approximately 275,000 homes and businesses.

Knology had significant telecommunications revenues in Florida in 2003 and is current in its accounts with this Commission for regulatory assessment fees and the Universal Service Administrative Corporation (USAC) for universal service fund contributions. Knology has requested this Commission designate it as an ETC in the following wire centers: Panama City (PNCYFLDARS1); Panama City Beach (PNCYFLDARS1); Lynn Haven (PNCYFLDARS1); Clearwater (CLWTFL05RS0); and Tarpon Springs (CLWTFL05RS0).

We are vested with jurisdiction in this matter pursuant to 47 CFR §54.201, and Section 364.025(5), Florida Statutes.

Analysis

Federal Communications Commission (FCC) rules provide that carriers designated as ETCs shall, throughout the designated service area: (1) offer the services that are supported by federal universal support mechanisms either using their own facilities or a combination of their own facilities and the resale of another carrier's services and (2) advertise the availability of such services and related charges using media of general distribution. See 47 CFR §54.201(d).

Knology has identified the wire centers of Panama City (PNCYFLDARS1); Panama City Beach (PNCYFLDARS1); Lynn Haven (PNCYFLDARS1); Clearwater (CLWTFL05RS0); and Tarpon Springs (CLWTFL05RS0) to offer the services that are supported by federal universal support mechanisms. Rule 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. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

The requirements of Rule 54.201(d), state:

A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, throughout the service area for which the designation is received:

- (1) Offer the services that are supported by federal universal service support mechanisms, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (2) Advertise the availability of such services and the charges therefore using media of general distribution.

In accordance with Rule 54.201(d)(1), the following services or functionalities shall be supported by federal universal support mechanisms as defined by Rule 54.101(a):

- (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;
- (3) Dual tone multi-frequency signaling or its functional equivalent Dual tone multi-frequency is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent Single party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;
- (6) Access to operator services Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion, of a telephone call;

- (7) Access to interexchange service Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers Toll limitation or blocking restricts all direct dial toll access.

In addition to providing the aforementioned services, ETCs must advertise the availability of such services and the associated charges using media of general distribution. Knology has stated that it will announce and advertise telecommunications services, either on a stand-alone basis or as part of a bundled package, in both of its Florida markets.

On February 25, 2005, the FCC adopted additional mandatory requirements for telecommunications carriers to be designated as an ETC.¹ Knology acknowledged these additional requirements at the March 1, 2005, Agenda Conference and stated that it would be

1 (1) Eligibility Requirements - In satisfying its burden of proof necessary to obtain ETC designation, an ETC applicant must now: 1) provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity throughout the service area for which it seeks designation; 2) demonstrate its ability to remain functional in emergency situations; 3) demonstrate that it will satisfy consumer protection and service quality standards; 4) offer local usage plans comparable to those offered by the incumbent local exchange carrier (LEC) in the areas for which it seeks designation; and 5) acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations. In addition, these requirements are made applicable on a prospective basis to all ETCs previously designated by the Commission, and such ETCs are required to submit evidence demonstrating how they comply with this new ETC designation framework by October 1, 2006.

(2) Public Interest Determinations - The Commission clarifies that its public interest examination for ETC designations will review many of the same factors for ETC designations in areas served by non-rural and rural incumbent LECs, including the benefits of increased consumer choice and the unique advantages and disadvantages of the competitor's service offering,. In addition, as part of its public interest analysis, the Commission will examine the potential for creamskimming effects in instances where an ETC applicant seeks designation below the study area level of a rural incumbent LEC.

(3) Annual Certification and Reporting Requirements - Each ETC designated by the Commission, including those designated prior to this decision, must submit on an annual basis: 1) progress updates on its five-year service quality improvement plan; 2) detailed information on outages in the ETC's network; 3) how many requests for service from potential customers were unfulfilled for the past year and the number of complaints per 1,000 handsets or lines; and 4) certifications that the ETC is complying with applicable service quality standards and consumer protection rules, is able to function in emergency situations, is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas, and acknowledge that the Commission may require it to provide equal access to long distance carriers.

(4) Other Issues - The Commission also: 1) agrees with the Joint Board's recommendation that the Commission's procedures for redefinition proceedings do not warrant a change at this time; 2) grants certain pending petitions for redefinition of rural incumbent LEC study areas; 3) modifies the Commission's annual high-cost certification and line count filing deadlines so that newly designated ETCs are permitted to file these data within sixty days of their ETC designation date, and modifies the quarterly interstate access support certification filing schedule; and 5) delegates authority to the Universal Service Administrative Company, in accordance with direction from the Wireline Competition Bureau, to develop standards for the submission of any maps that ETCs are required to submit under Commission rules.

able to meet those requirements. In addition, Knology voluntarily accepted carrier of last resort obligations.

Decision

Section 364.025, Florida Statutes, allows CLECs to petition this Commission for ETC status. This authority stems from this Commission's statutory duty to exercise oversight over the transition from the monopoly provision of local exchange service to competitive provision in order to protect consumers and provide for the development of a fair and effective telecommunications market.² We recognize that there are dual goals of preserving the universal service system, while at the same time fostering competition.³ We find that in this case, ETC designation will promote competition by enhancing choice among service providers and will in addition, facilitate network build-out. The provision of telecommunications through a new medium, in this instance cable telephony, is just what Congress had hoped for when it passed the Telecommunications Act of 1996.⁴ We find that granting Knology ETC status furthers the goal that all providers of telecommunications services be treated fairly, and ensures the availability of basic local telecommunications services to all consumers in the state at reasonable and affordable prices.

Knology has demonstrated that it has the ability to provide the nine-point list of services that are supported by federal universal support mechanisms using its own facilities or a combination of its own facilities and the resale of another carrier's services. Additionally, Knology has indicated that it will advertise the supported services as required. Furthermore, at our Agenda Conference, Knology expressed its ability and intent to meet the FCC's additional mandatory requirements for ETCs. Knology also volunteered compliance with all of the obligations emanating from designation as a carrier of last resort (COLR).

Knology has acknowledged the requirements of the Florida Lifeline program and has agreed to provide a \$3.50 credit to clients qualified to receive Lifeline assistance to enable the customers to receive \$13.50 in credits consisting of: up to \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. Knology indicates that it will advertise the availability of Lifeline and begin offering these services within 30-45 days of receiving ETC status.

Knology commits to use federal universal support only for the provision and maintenance of facilities used for telecommunications services. Knology also commits to isolate telecommunications service costs – to the extent they are separable – and demonstrate that only

² Section 364.025(5) addresses a CLEC petition to become a universal service provider and provide its fair share to the funding.

³ Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, 17 FCC Rcd 22642, para. 1 (2002) (Referral Order).

⁴ Congress thought that competition and new technologies would reduce, not increase, the overall need for universal service support by lowering costs. See S. Rep. No. 23, 104th Cong., 1st Sess. 26 (“The Committee expects that competition and new technologies will greatly reduce the actual cost of providing universal service over time, thus reducing or eliminating the need for universal service support mechanisms as actual costs drop to a level that is at or below the affordable rate for such service in an area . . .”) (cited in Tenth Circuit Remand Order, FCC 03-249 at para. 77 n.296).

direct telecommunications costs or appropriately documented shared costs of facilities used for telecommunications services are being supported by federal universal service funds. We find that Knology shall be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida.

Upon consideration of the foregoing, we hereby grant Knology designation as an ETC in the following wire centers: Panama City (PNCYFLDARS1); Panama City Beach (PNCYFLDARS1); Lynn Haven (PNCYFLDARS1); Clearwater (CLWTFL05RS0); and Tarpon Springs (CLWTFL05RS0).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Knology of Florida, Inc. is granted designation as an eligible telecommunications carrier in the wire centers set forth in the body of this Order. It is further

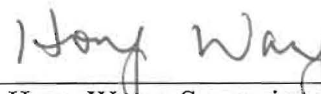
ORDERED that Knology shall be required, at the time of annual eligible telecommunications carrier recertification, to demonstrate how it has used the universal service funds within Florida. It is further

ORDERED that if no person whose substantial interests are affected files a protest to this Order within 21 days of its issuance, this docket shall be closed upon issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 21st day of March, 2005.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Hong Wang, Supervisor
Case Management Review Section

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 11, 2005.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.