

Ruth Nettles

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From: Lacey, Charlotte [clacey@telecomcounsel.com]
Sent: Wednesday, January 16, 2008 5:18 PM
To: Filings@psc.state.fl.us
Subject: dPi Teleconnect, LLC - ETC Designation
Attachments: FL ETC Filing.pdf

Please see the attached Application for Certification as an Eligible Telecommunications Carrier for dPi Teleconnect, LLC. Thank you.

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January 16, 2008

VIA E-FILING

Bob Casey, Public Utility Supervisor
Division of Competitive Markets
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: dPi Teleconnect, LLC - ETC Designation

Dear Mr. Casey:

Enclosed please find for filing one original of dPi Teleconnect, LLC's Application for Certification as an Eligible Telecommunications Carrier.

I have also enclosed an extra copy of this letter to be date-stamped and returned to me in the enclosed preaddressed, postage prepaid envelope.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me.

Respectfully submitted,

Lance J.M. Steinhart
Attorney for dPi Teleconnect, LLC

Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSON

APPLICATION OF)
DPI TELECONNECT, LLC)
FOR CERTIFICATION AS AN ELIGIBLE) DOCKET NO.
TELECOMMUNICATIONS CARRIER)

APPLICATION FOR CERTIFICATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

dPi Teleconnect, LLC (“dPi” or the “Company”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹ and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and §364.10(2), and §364.025(5), Florida Statutes, hereby applies to the Florida Public Service Commission (“Commission”) for certification as an Eligible Telecommunications Carrier (“ETC”) throughout the non-rural BellSouth/AT&T, Embarq and Verizon service territories (“Designated Service Area”) for the purpose of receiving federal universal service support. The Company is seeking only low income support, and is not requesting high cost support. As demonstrated below, dPi satisfies all of the statutory and regulatory requirements for designation as an ETC in the Designated Service Area. Furthermore, designation of dPi in the Designated Service Area will serve the public interest. Accordingly, dPi respectfully requests that the Commission grant this Application.

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. §§ 54.101-54.207.

I. Background

1. dPi is a Delaware limited liability company³ and is authorized to conduct business as a foreign limited liability company in the State of Florida. Copies of the Company's Articles of Organization and authority to transact business in the State of Florida are on file with the Commission and incorporated herein by reference. The Company was granted Certification to Operate as an Alternate Local Exchange Services Company (ALEC) in Florida which became effective on December 5, 1998, in Docket Number 981098-TX, Order Number PSC-98-1506-FOF-TX. The principal office of the Company is located at 2997 LBJ Freeway, Suite 225, Dallas, TX 75234. The Company provides local exchange and exchange access services in the Designated Service Area using a combination of resale and unbundled network elements, or unbundled network equivalents obtained through commercial agreements ("UNEs") that allows end-to-end switching delivery of calls.
2. As set forth in Section 214(e)(2) of the Act, the Commission "shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214(e)(1)] as an eligible telecommunications carrier for a service area designated by the State commission."⁴ Upon designation as an ETC, the carrier

³ dPi was organized in the State of Delaware on January 15, 1999

⁴ 47 U.S.C. § 214(e)(2); see 47 C.F.R. § 54.201(b) (FCC Rules citing the Act's requirements).

shall be eligible to receive universal support in accordance with Section 254 of the Act.⁵

3. The requirements for designation as an ETC set forth in Section 214(e)(1) are that the carrier must:

- (A) offer the services that are supported by Federal universal support mechanisms under section 254(c), 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
- (B) advertise the availability of such services and the charges therefore using the media of general distribution.⁶

II. dPi Satisfies the Requirements for Designation as an ETC to Serve the Designated Service Area

4. dPi is a common carrier as that term is defined in the Act.⁷ The Company provides competitive local telecommunications services in the state of Florida pursuant to Order Number PSC-98-1506-FOF-TX referenced above.

5. dPi offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs. According to FCC Rules, facilities obtained as UNEs satisfy the requirement that an ETC provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.⁸ Accordingly, the Company satisfies the requirement set forth in Section 214(e)(1)(A).

⁵ 47 U.S.C. § 214(e)(1).

⁶ *Id.*

⁷ See 47 U.S.C. § 153(10) ("the term 'common carrier' or 'carrier' means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy . . .").

⁸ Section 54.201(f) of the FCC's Rules states, "[f]or the purposes of this section, the term 'own facilities' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this chapter, provided that such facilities meet the definition of the term 'facilities' under this subpart." 47 C.F.R. § 54.201(f). The term "facilities" under Section 54.201 is defined as "any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part." 47 C.F.R. § 54.201(e). dPi's use of AT&T's UNEs meets this definition of "facilities."

6. The services that are supported by Federal universal support mechanisms under section 254(c) are enumerated in the rules of the Federal Communications Commission ("FCC") at 47 C.F.R. § 54.101(a)(1)-(9). These services are:

- a) 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. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;
- b) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users;
- c) Dual tone multi-frequency signaling or its functional equivalent. "Dual tone multi-frequency" (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;
- d) 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;

- e) 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. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;
- f) 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 or completion, or both, of a telephone call;
- g) 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;

- h) 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
- i) Toll limitation for qualifying low-income consumers. Toll limitation for qualifying low-income consumers.

7. Upon certification as an ETC, dPi will participate in, and offer, LifeLine and Link-Up programs to qualifying low-income consumers and publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services, as required by FCC Rules.⁹

8. dPi will advertise the availability of the above-referenced services and the charges for those services in the Designated Service Area using media of general distribution, as required by FCC Rules.¹⁰

III. Area for Which ETC Certification Is Requested

12. dPi has served and will continue to serve the exchanges where it leases UNEs or resells the services of the non-rural telephone companies in the state of Florida. dPi does not seek certification as an ETC in any areas served by rural telephone companies. The Company does not provide local exchange service in any area served by any Independent telephone company.

IV. Granting dPi's Application Will Serve the Public Interest

13. Congress requires that the Commission grant competitive ETC applications in non-rural areas.¹¹ No specific public interest test is mentioned, as is the case for areas served by rural telephone companies.¹² Thus, the Act provides that the Commission "shall" designate dPi as an ETC upon finding that the company meets the nine-point list of services and that it agrees

⁹ See 47 C.F.R. §§ 54.401-54.417; 54.405(b)& 54.411(d)..

¹⁰ See 47 C.F.R. §§ 54.201(d)(2).

¹¹ See 47 U.S.C. 214(e)(2).

¹² See *Id.*

to advertise the supported services throughout the Designated Service Area. Notwithstanding, the designation of dPi as an ETC will serve the public interest.

14. A central purpose of the Telecommunications Act of 1996 was to “promote competition and reduce regulation ... [thereby securing] lower prices and higher quality services ... and encourage the rapid deployment of new telecommunications technologies.”¹³ Designation of dPi as an ETC would further these goals. Granting ETC status to dPi would allow the Company to obtain federal universal service support, which it will use to offer innovative telecommunications services at competitive prices to non-rural consumers in the Designated Service Area.

15. dPi will announce and advertise telecommunications services as an ETC where it provides service in its Designated Service Area in Florida and will publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Florida residents will be made aware of the opportunities afforded to them under the Lifeline and Link-Up programs and will be able to take advantage of those opportunities by subscribing to dPi’s service.

16. dPi will provide universal service as an ETC in all of its Designated Service Area.

17. dPi is willing to accept carrier of last resort obligations throughout the universal service areas in which dPi is designated as an ETC by the Commission.

18. dPi is aware that it may seek USF funding only with respect to those customers that it serves through the use of its own facilities (including UNE-P or equivalent facilities).

19. dPi will provide equal access to long distance carriers, to the extent to which it is able to do so.

¹³ The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 56 (1996).

20. Under FCC guidelines, an ETC Applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed Designated Service Area. The only circumstance warranting deviation from this requirement is where an applicant's requested ETC serving territory would qualify it to receive no "high cost" USF support, but only "low income" USF support. Because dPi seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a Five-Year Network Improvement Plan is not required at this time.

21. Applicant offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

22. Under FCC guidelines, an ETC Applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. 47 CFR §54.202(a)(3); FCC ETC Order at Para 28. Applicant will satisfy all such standards. As part of its certification requirements for providing local exchange services, Applicant must abide by the service quality and consumer protection rules. In addition, Applicant commits to reporting information on consumer complaints per 1,000 lines on an annual basis consistent with the FCC's ETC Order. Applicant in general commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards.

23. Under FCC guidelines, an ETC Applicant must demonstrate its ability to remain functional in emergency situations. 47 CFR §54.202(a)(2); FCC ETC Order at Para 25.

Since Applicant is providing service to its customers through the use of ILEC leased facilities, this arrangement allows Applicant to provide to its customers the same ability to remain functional in emergency situations as currently provided by the ILECs to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

24. Under FCC guidelines, an ETC Applicant must commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. FCC ETC Order at Para 22; 47 CFR §54.202(a)(1)(i). Applicant commits to provide service throughout its proposed ETC-designated service area to all customers making a reasonable request for service.

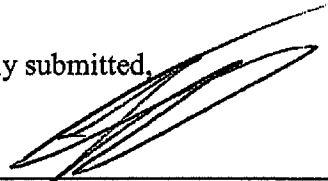
V. Legal Authority

This Application is filed pursuant to 47 U.S. C. §§151 *et seq.* and § 364.10(2), and §364.025(5), Florida Statutes.

VI. Relief Requested

For the foregoing reasons, dPi respectfully requests that the Commission grant its application and designate the Company as an ETC for the Designated Service Area.

Respectfully submitted,



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Attorney for dPi Teleconnect, LLC

Certification:

I David Dorwart certify that I am the company officer/employee responsible for this request and that I have examined/formulated the foregoing request. To the best of my knowledge, information and belief, all statements of fact contained in said request are correct statements of the business and affairs of the requesting carrier with respect to each and every matter set forth.

Dated 1-15-2008

Telephone Number 972-488-5580

Signature David B. Dorwart

Notary Public

Subscribed and sworn to before me, a _____ in and for the State of Texas above named, this 15 day of January, 2008.



Rolande G. Jones
(Notary Public)

(Seal)

My Commission Expires: 10-29-2011

FL ETC

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