

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 7, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Beard, Casey, J. Mann, Polk)
Office of the General Counsel (R. Mann)

RE: Docket No. 070287-TP – Petition for designation as eligible telecommunications carrier (ETC) by Global Connection, Inc of America.

AGENDA: 08/19/08 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RCP\WP\070287.RCM.DOC

Case Background

Global Connection Inc. of America (Global) petitioned the Florida Public Service Commission (FPSC) for designation as an eligible telecommunications carrier (ETC) in certain BellSouth Telecommunications, Inc./AT&T (AT&T), Embarq-Florida, Inc. (Embarq), Verizon Florida (Verizon), and Windstream exchanges for the purpose of receiving federal universal service support. Global provides local exchange and exchange access services in the AT&T exchanges using a combination of wholesale local platform (WLP)/unbundled network element (UNE) lines, and AT&T resale services. Global provides local exchange and exchange access services in the AT&T, Embarq, Verizon, and Windstream exchanges using resale services provided by those carriers. Global has resale agreements with AT&T, Embarq, Verizon and Windstream, however, it only has an interconnection agreement with AT&T.

Global is a Georgia corporation authorized to conduct business as a foreign corporation in the state of Florida, and is a competitive local exchange carrier (CLEC) certificated by the FPSC.¹ Global engages in the delivery of prepaid telecommunications services, primarily in Georgia, but also operates in Alabama, Arkansas, Florida, Illinois, Indiana, Kentucky, Michigan, Mississippi, North Carolina, South Carolina and Tennessee. Global is not an ETC in any state at the present time, but offers Lifeline credits to customers through resale agreements with its underlying carriers. Global had applied for ETC status in Kansas and Tennessee, but withdrew those applications.

Upon designation as an ETC, Global states it will participate in and offer Lifeline and Link-Up programs to qualifying low-income consumers in Florida. Global has committed to publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for services, as required by Federal Communications Commission (FCC) rules. According to Global, it could have Lifeline available to its Florida customers within 30 days of receiving approval.

Staff drafted an affidavit for ETC applicants to sign attesting that the ETC applicant will follow all Florida Statutes, Florida Administrative Rules, Florida PSC Orders, FCC rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding Universal Service, ETCs, Link-Up and Lifeline, and toll limitation service. Global did not sign or return the affidavit (See Attachment A).

The Commission has authority under Section 364.10(2), Florida Statutes, to decide a petition by a CLEC seeking designation as an ETC pursuant to 47 C.F.R. § 54.201.

¹ PSC-01-1217-PAA-TX, issued May 30, 2001, in PSC Docket 010152-TX.

Discussion of Issues

Issue 1: Should Global be granted ETC status in the State of Florida?

Recommendation: No, staff recommends that Global's petition for ETC status in the state of Florida be denied. Global has failed to respond to staff's second data request dated July 21, 2008. Global has also failed to execute and submit an affidavit provided to it on July 3, 2008, which would certify that Global understands and will follow all rules and regulations pertaining to Florida's Lifeline and Link-Up program. (Attachment A). (Beard, Casey)

Staff Analysis: Under FCC rules, the state commissions have the primary responsibility to designate providers as ETCs.² Designation as an ETC is required in order for a provider to be eligible to receive monies directly from the Federal Universal Service Fund (USF). Section 254(e) of the Act³ provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific federal universal service support."⁴ According to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout a designated service area.

ETC Certification Requirements

CFR Rule 54.201(c), addresses a state commission's responsibilities related to ETC designation, stating:⁵

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.

To qualify as an ETC, telecommunications carriers must provide nine services identified in CFR Rule 54.201(d)(1).

- (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 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).

³ 47 U.S.C. § 254 of the 1996 Telecom Act

⁴ 47 U.S.C. § 254(e)(2).

⁵ 47 C.F.R. § 54.201(c)

- (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 ("DTMF") 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 above services, ETC's must advertise the availability of such services and the associated charges using media of general distribution.

Additional ETC Certification Requirements

In addition to requiring the above services, the FCC, on March 17, 2005, issued a Report and Order that established additional criteria that all ETC applicants must satisfy in order to be granted ETC status by the FCC.⁶ In this Order, the FCC determined that an ETC applicant must also demonstrate:

⁶ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46, Adopted: February 25, 2005, Released: March 17, 2005.

- 1) a commitment and ability to provide the supported services throughout the designated area;
- 2) the ability to remain functional in emergency situations;
- 3) the ability to satisfy consumer protection and service quality standards;
- 4) a provision of local usage comparable to that offered by the incumbent LEC; and
- 5) an acknowledgement that the applicant may be required by the FCC to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.

The FCC encouraged states to also adopt these criteria, and the FPSC has done so in Docket No. 010977-TL, In re: State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314, by Order No. PSC-05-0824-TL, issued August 15, 2005.

Public Interest Determinations

Under Section 214 of the Act, the FCC and state commissions must determine that an ETC designation is consistent with the public interest, convenience, and necessity for rural areas. They also must consider whether an ETC designation serves the public interest consistent with Section 254 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in Section 214 or Section 254. The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.⁷ Staff believes that before designating a carrier as an ETC, the FPSC should make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.

Global Connection, Inc. of America's Petition

Global filed its original petition requesting ETC designation on April 24, 2007. The application included a number of deficiencies. The title of the petition requested designation as an ETC in the state of Georgia. The petition stated that Global Connections provides local exchange service in the Embarq, Verizon, AT&T and SBC exchanges. SBC has no exchanges in Florida, and Global was advised that SBC and BellSouth are now a part of AT&T, and Sprint is now known as Embarq.

Section IX of Global's petition referenced Commission Docket 9322-U. Global was advised that the Florida PSC has no such docket. Section XII of the petition stated that Global does not seek designation as an ETC in any areas served by rural telephone companies, yet

⁷ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46 (¶40), Adopted: February 25, 2005 Released: March 17, 2005.

Global was requesting ETC status in Embarq's area. Global was advised that all of Embarq's service area in Florida is considered rural for universal service purposes.

Exhibit E to the petition listed the wire centers in which Global was requesting ETC status. All of those wire centers were in Georgia. On May 21, 2007, staff sent a letter to Global asking it to correct the deficiencies and submit responses to staff's first set of data requests which were included in the letter, by June 2, 2007. Global filed a revised "Petition for Designation as an Eligible Telecommunications Carrier" and submitted responses to staff's first set of data requests on June 11, 2007.

Global has not submitted the affidavit sent to it July 3, 2008, and has not provided responses to staff's second set of data requests. Staff cannot proceed with Global's petition without the requested information and executed affidavit. Staff received confirmation that its July 21, 2008 e-mail containing the second set of data requests was read by Sam Abdallah, President of Global, on July 21, 2008 at 3:21 pm. Another staff e-mail was sent July 28, 2008, reminding Mr. Abdallah that staff has not received responses to the second data request, and has not received the executed affidavit. Staff received confirmation that Mr. Abdallah read that e-mail at 3:42 pm on July 28, 2008. Staff advised that the affidavit and any updated responses to staff's first set of data requests should be submitted to the Commission by July 15, 2008. Staff also advised Global that failure to return the executed affidavit may cause staff to recommend denial of ETC status in Florida. Staff sent a second set of data requests to Global with a due date of July 23, 2008. As of time of filing, no response has been received.

Conclusion

As mentioned previously, before designating a carrier as an ETC, the FPSC should make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier. Global has not provided responses to staff's second set of data requests or submitted a signed affidavit, attesting that it will follow all Florida Statutes, Florida Administrative Rules, Florida PSC Orders, FCC rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding Universal Service, ETCs, Link-Up and Lifeline, and toll limitation service. Staff believes that Global does not have the management capability necessary to be designated as an ETC in the state of Florida. Therefore, staff recommends that it is not in the public interest to designate Global as an ETC in Florida. Denying ETC status to Global will not prevent it from providing Link-Up and Lifeline services to its customers. Global can purchase Link-Up and Lifeline through its resale agreement(s) with its underlying carrier(s). Therefore, staff recommends that Global's petition for ETC status in the in the state of Florida be denied.

Docket No. 070287-TP

Date: August 7, 2008

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order. (R. Mann)

Staff Analysis: If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order.

AFFIDAVIT

State of _____
County of _____

BEFORE ME, the undersigned authority, appeared _____,
who deposed and said:

My name is _____, I am employed by
_____, located at
_____ as its
_____. I am an officer of the Company and am authorized to give
this affidavit on behalf of the Company. This affidavit is being given to support the Eligible
Telecommunications Carrier petition filed by my Company with the Florida Public Service
Commission (PSC).

Company hereby certifies the following:

1. Company will follow all Florida Statutes, Florida Administrative Rules, and Florida PSC Orders relating to Universal Service, Eligible Telecommunications Carriers, and the Florida Link-Up and Lifeline Program.
2. Company will follow all FCC rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding Universal Service, ETCs, Link-Up and Lifeline, and toll limitation service.
3. Company agrees that the Florida PSC may revoke a carrier's ETC status for good cause after notice and opportunity for hearing, for violations of any applicable Florida Statutes, Florida Administrative Rules, Florida PSC Orders, failure to fulfill requirements of Sections 214 or 254 of the Telecommunications Act of 1996, or if the PSC determines that it is no longer in the public interest for the company to retain ETC status.
4. Company understands that if its petition for ETC status is approved, it will be for limited ETC status to provide Link-Up, Lifeline, and toll-limitation service only, and the Company will be eligible only to receive low-income support from the Universal Service Fund.
5. Company understands that it may only receive reimbursement from the Universal Service Administrative company (USAC) for active customer Link-Up and Lifeline access lines which are provided using its own facilities or using access lines obtained as wholesale local platform lines (formerly UNE lines) from another carrier. The Company shall not apply to USAC for reimbursement of Link-Up and Lifeline access lines obtained from an underlying carrier which already receive a Lifeline and/or Link-Up credit provided by the underlying carrier.

- 6. Company understands that the PSC shall have access to all books of account, records and property of all eligible telecommunications carriers.
- 7. Company understands that low income support reimbursed by USAC for toll limitation service is available only for the incremental costs that are associated exclusively with toll limitation service.
- 8. Company agrees that upon request, it will submit to the PSC a copy of Form 497 forms filed with USAC to:
Florida Public Service Commission
Division of Regulatory Compliance, Market Practices Section
2540 Shumard Oak Drive
Tallahassee, Florida 32303
- 9. Company understands that in accordance with the Florida Lifeline program, eligible customers will receive a \$13.50 monthly discount on their phone bill, \$3.50 of which is provided by the ETC, and \$10.00 of which is reimbursable from the Federal Universal Service Fund.

FURTHER AFFIANT SAYETH NOT.

Signature

Date

Printed Name

Business Address:

State of _____
County of _____

Acknowledged before me this _____ day of _____, _____, by _____, as _____ of Company, who is personally known to me or produced identification and who did take an oath.

NOTARY PUBLIC

Printed Name of Notary

Personally Known _____
Produced Identification _____
Type of Identification Produced _____