

1-800-RECONEX

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PUBLIC SERVICE
COMMISSION

February 6, 2006

Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

*Re: In The Matter Of: Petition of 1-800-Reconex, Inc., d/b/a U.S.Tel For
Designation As An Eligible Telecommunications Carrier In The
Commonwealth of Kentucky*

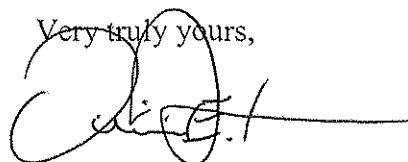
Dear Ms. O'Donnell:

Case No. 2006-00060

Enclosed herewith please find for filing with the Commission the original and ten (10) copies of the above referenced Petition. Please note that the Petition has been served on BellSouth, a party who is named in the Petition and may be interested in its subject matter.

Please date and time stamp the extra copy as proof of filing and return it in the enclosed self addressed stamped envelope. Please refer any questions about this Petition to the undersigned at 503.982.5573.

Very truly yours,



William E. Braun
Vice-President & General Counsel

enclosures

cc: BellSouth Telecommunications

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of)
Petition of 1-800-Reconex, Inc., d/b/a)
U.S. Tel For Designation as an Eligible)
Telecommunications Carrier in the)
Commonwealth of Kentucky)

PSC Case 2006-00060

PETITION OF 1-800-RECONEX, INC., D/B/A U.S.TEL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE
COMMONWEALTH OF KENTUCKY

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February 6th, 2006

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND.....	2
II. RECONEX SATISFIES ALL OF THE REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.....	3
A. Reconex Offers Each of the Services Supported By the Federal High-Cost Universal Service Program.....	4
1. Voice-Grade Access to the Public Switched Network.....	5
2. Local Usage.....	5
3. Dual-Tone Multi-Frequency (“DTMF”) Signaling, or its Functional Equivalent.....	6
4. Single-Party Service or its Functional Equivalent.....	6
5. Access to Emergency Services.....	6
6. Access to Operator Services.....	7
7. Access to Interexchange Services.....	7
8. Access to Directory Assistance.....	8
9. Toll Limitation for Qualifying Low-Income Consumers.....	8
B. Reconex Offers Supported Services Over Its Own Facilities.....	9
C. Reconex Will Advertise Its Universal Service Offering.....	9
III. RECONEX REQUESTS DESIGNATION THROUGHOUT THE BELLSOUTH SERVICE AREA IN KENTUCKY.....	10
IV. GRANTING THIS PETITION WILL SERVE THE PUBLIC INTEREST.....	10
A. Public Interest Analysis in Non-Rural Area.....	10
B. Public Interest Analysis Under 47 U.S.C. Section 214(e)(6).....	10
V. HIGH COST CERTIFICATION.....	12
CONCLUSION.....	12

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**PETITION OF 1-800-RECONEX, INC., D/B/A U.S.TEL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE
COMMONWEALTH OF KENTUCKY**

1-800-Reconex, Inc., d/b/a U.S. Tel (“Reconex” or “Company”), by its undersigned counsel and pursuant to 807 KAR 5:001, Section 8, and Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹, hereby submits this Petition for Designation (“Petition”) as an Eligible Telecommunications Carrier (ETC) throughout its licensed service area in the State of Kentucky. Reconex seeks designation as an ETC for the wire centers of BellSouth Telecommunications, Inc., (“BellSouth”), a non-rural incumbent LEC. As demonstrated below, Reconex satisfies all of the statutory and regulatory requirements for designation as an ETC and Reconex’s designation will serve the public interest. Accordingly, Reconex respectfully requests that Kentucky Public Service Commission (“Commission”) grant this Petition.

¹ 47 U.S.C. Section 214(e)(2)

I. BACKGROUND.

Reconex is a competitive local exchange carrier (“CLEC”) headquartered in Hubbard, Oregon that offers local exchange and exchange access services to both residential and small business customers in thirty-five (35) jurisdictions, including the State of Kentucky,² and is certified to provide local exchange and exchange access services in forty-five (45) jurisdictions. A copy of the Company’s Articles of Incorporation are on file with the Commission and incorporated by reference.³

Reconex currently provides all services and functionalities supported by the federal universal service program set forth in Section 54.101(a) of the Federal Communications Commission’s (“FCC’s”) rules throughout its service area in Kentucky. Reconex will provide universal service to its consumer using a combination of unbundled network elements (“UNEs”), via the UNE-P replacement product of BellSouth (DS0 Services Agreement), and resale of BellSouth’s local exchange service pursuant to Section 251(c)(4) of the federal Act.⁴

Reconex seeks designation as competitive ETC for purposes of qualifying to receive federal universal service support in the non-rural service area of the incumbent carrier, BellSouth.

Designation of Reconex, as an ETC will benefit Kentucky consumers by enhancing Reconex’s ability to construct and improve network facilities, which will

² Case No. 97-288 – November 18, 1997.

³ *Id.*

⁴ Section 54.201 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. Section 54.201(f). The term “facilities” under Section 54.201 is defined as “any physical components of the telecommunication 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. Section 54.201(e). Reconex’s use of BellSouth’s UNEs meets this definition of “facilities”.

facilitate competition by placing Reconex on a more level playing field with the incumbent local exchange carriers.

II. RECONEX SATISFIES ALL OF THE REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.

Pursuant to Section 214(e)(2) of the Act, a State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) [Section 214(e)(1) of the Act] as an eligible telecommunications carrier for a service area designated by the State commission.⁵ A “common carrier” under the Act 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, except where reference is made to common carriers not subject to this Act...”.⁶ Reconex is a common carrier as defined by the above language.

The requirements of Section 214(e)(1) are that the common carrier must:

- (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, 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 media of general distribution.⁷

The “supported services” are listed in 47 C.F.R. Section 54.101(a). Reconex

⁵ 47 U.S.C Section 214(e)(2)

⁶ 47 U.S.C. Section 153(10)

⁷ 47 U.S.C. Section 214(e)(1)

satisfies each of the elements required for ETC designation pursuant to Section 214(e) of the Act.

A. Reconex Offers Each of the Services Supported By the Federal High-Cost Universal Service Program.

Reconex currently provides (or will provide upon ETC designation) all of the services and functionalities supported by the federal universal service program, as set forth in Section 214 of the Act and Section 54.101(a) of the FCC's rules, throughout the BellSouth area in Kentucky, the area for which it seeks designation.

The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:⁸

1. Voice-grade access to the public switched telephone network;
2. Local usage;
3. Dual-tone, multi-frequency ("DTMF") signaling, or its functional equivalent;
4. Single-party service or its functional equivalent;
5. Access to emergency services;
6. Access to operator services;
7. Access to interexchange services;
8. Access to directory assistance, and
9. Toll limitation for qualifying low-income consumers.

⁸ 47 C.F.R. Section 54.101(a)(1-9).

For purposes of ETC applications, carriers must certify that they provide (or will provide) each of the supported services, or where it's appropriate, its functional equivalent.⁹ As shown below and in the Declaration attached as Exhibit A hereto, Reconex currently provides, or will provide upon designation, each of the required services and functionalities throughout the area for which it seeks designation.

1. Voice-Grade Access To The Public Switched Network.

“Voice-grade access” is defined as a functionality that enables a user of telecommunication 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 there is an incoming call. The bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz. Reconex meets this requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with BellSouth, each of Reconex's customers are able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. 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. ETCs must include local usage beyond providing simple access to the public switched network as part of a universal service offering. Reconex includes unlimited local usage in each of its local

⁹ See 47 C.F.R. Section 54.101.

service rate plans, and thereby complies with the requirement that all ETCs offer local usage.

3. Dual-Tone Multi-Frequency (“DTMF”) Signaling, or its Functional Equivalent.

“DTMF” is a method of signaling that facilitates the transportation of call set-up and call detail information. Reconex provides DTMF signaling consistent with the rules.

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 telecommunication carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of the user’s particular transmission. Reconex meets the requirement by providing single-party service throughout its service area.

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. 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 enable 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. Reconex currently provides its subscribers with access to 911 and enhanced 911 emergency services in accord with this requirement, and consistent with FCC regulations throughout the service area for which designation is sought.

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 or completion, or both, of a telephone call. Reconex currently has the technology to provide this service and will meet these requirements by providing its Lifeline customers with access to operator services, including customer service and call completion.

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. An ETC must offer consumers access to interexchange service to make and receive toll or interexchange calls. Reconex meets this requirement by providing its customers with the ability to make such calls.

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. Reconex meets this requirement by providing its customers with access to directory assistance by dialing “411”.

9. Toll Limitation for Qualifying Low-Income Consumers.

“Toll limitation” denotes either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, "toll limitation" denotes both toll blocking and toll control.¹⁰

- (a) Toll blocking. "Toll blocking" is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.¹¹
- (b) Toll control. "Toll control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.¹²

¹⁰ 47 C.F.R. Section 54.400(d)

¹¹ 47 C.F.R. Section 54.400(c)

¹² 47 C.F.R. Section 54.400(b)

Reconex currently has the technology to provide toll limitation, currently provides it to its customers, and will utilize this technology to provide such functionality at no additional charge to Lifeline customers.

B. Reconex Offers Supported Services Over Its Own Facilities.

A carrier requesting designation must certify that it offers the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”¹³ Reconex will provide universal service to its consumer using a combination of unbundled network elements (“UNEs”), via the UNE-P replacement product of BellSouth (DS0 Services Agreement), and resale of BellSouth’s local exchange service pursuant to Section 251(c)(4) of the federal Act.¹⁴ Reconex is willing and able to serve all customers throughout the area for which it has requested designation.

C. Reconex Will Advertise Its Universal Service Offering.

Reconex will advertise the availability of the supported services and the corresponding charges in a manner that informs the general public within the designated area of both the services available and the corresponding charges.¹⁵ Reconex advertises its wireline services through several different media of general distribution throughout

¹³ 47 U.S.C. Section 214(e)(1)(A)

¹⁴ Section 54.201 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. Section 54.201(f). The term “facilities” under Section 54.201 is defined as “any physical components of the telecommunication 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. Section 54.201(e). Reconex’s use of BellSouth’s UNEs meets this definition of “facilities”.

¹⁵ 47 C.F.R. Section 54.201(d)(2); 47 U.S.C. Section 214(e)(1)(B).

the service area for which designation is requested. While Reconex's primary method of advertising is via television, other methods including direct mail, newspapers, periodicals, and customer bill inserts, will be utilized to advertise its universal service offerings throughout the service area designated by the Commission.

III. RECONEX REQUESTS DESIGNATION THROUGHOUT THE BELLSOUTH SERVICE AREA IN KENTUCKY.

Reconex requests ETC designation for the entire BellSouth service area in Kentucky as depicted on the map attached hereto as Exhibit B. Pursuant to the Act, a "service area", is a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms."¹⁶

Reconex is not applying for designation as an ETC in an area served by a rural telephone company.

IV. GRANTING THIS PETITION WILL SERVE THE PUBLIC INTEREST.

A. Public Interest Analysis In Non-Rural Area.

Pursuant to 47 U.S.C. Section 214(e)(2) before a State commission designates an ETC for an area served by a rural telephone company, "the State commission shall find that the designation is in the public interest". As BellSouth is not a rural telephone company under 47 U.S.C. Section 153(37) there is no need for the Commission to determine whether or not designation of Reconex is in the public interest and granting of the petition for ETC designation is required.¹⁷

¹⁶ 47 C.F.R. Section 54.207(a).

¹⁷ 47 U.S.C. Section 214(e)(2).

B. Public Interest Analysis Under 47 U.S.C. Section 214(e)(6).

Designation as an ETC under 47 U.S.C. Section 214(e)(6) takes place in the event that a common carrier is not subject to the jurisdiction of a State commission. The analysis includes a public interest determination regardless of whether the area where designation is sought is served by a rural or non-rural carrier.¹⁸ While states are not mandated to apply the FCC's analysis in determining whether or not the public interest would be served by designation of a carrier as an ETC in a non-rural area, they are encouraged to do so.¹⁹

Should the Commission deem it necessary to conduct a public interest analysis, the Commission should find that designating Reconex as an ETC would serve the public interest. As stated above, designation of Reconex, as an ETC will benefit Kentucky consumers by enhancing Reconex's ability to construct and improve network facilities, which will facilitate competition by placing Reconex on a more level playing field with the incumbent local exchange carriers.²⁰ With the recent set-backs dealt to the CLEC community via the TRO/TRRO²¹ (and with those decisions, the premature demise of UNE-P), it is clear that the only type of competition that will survive is true, facilities-based competition. To that end, carriers must achieve a certain customer density in order to justify the significant cash outlays necessary to purchase facilities. Designation of Reconex as an ETC will allow the Company to serve a greater number of customers and

¹⁸ See *ETC Designation Order*, 20 FCC Rcd at 6371, para. 3

¹⁹ *Id.*

²⁰ *Supra* at pages 2-3.

²¹ See, Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd 2533 ("TRRO"); Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003) ("TRO or "Triennial Review Order").

hopefully achieve the density necessary to justify the purchase of facilities, which are currently cost-prohibitive, for all, but the largest CLECs.

In addition, designating Reconex as an ETC will bring the further benefits of competition of increased choices, higher quality service, and lower rates. In a competitive market, consumers will be able to choose the services that best meet their communication needs. With a choice of service providers, the consumer is able to select a provider based on service quality, service availability, and rates.

Finally, Reconex will, as required by Section 214(e) of the Act, use all federal high cost support that it receives for the construction, maintenance, an upgrading of facilities used to provide supported service in rural and high-cost areas. Receipt of universal high-cost funds will enable Reconex to accelerate and expand its deployment of wireline network facilities throughout its licensed service area in Kentucky.

V. HIGH COST CERTIFICATION.

Pursuant to Sections 54.313, 54.314, 54.809, and 54.904 of the FCC's rules, carriers seeking high cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the FCC and the Universal Service Administration Company as to their compliance with Section 254(e) of the Act. As such, Reconex submits its high-cost certification with the Commission as part of this petition (*see Exhibit A* attached). Reconex respectfully requests that the Commission issue a finding that Reconex has met the high-cost certification requirement and that Reconex, is therefore, entitled to begin

receiving high-cost support as of the date it receives a grant of ETC status in order that the funding will not be delayed.

CONCLUSION

Based upon the foregoing, Reconex respectfully request that the Commission designate Reconex as a competitive federal ETC for purposes of receiving federal universal service support effective as of the date of the Commission's order.

Dated: February 6, 2006

Respectfully submitted,

1-800-Reconex, Inc., d/b/a U.S. Tel

By: 

William E. Braun
Vice-President & General Counsel
2500 Industrial Avenue
Hubbard, Oregon 97032
Telephone: 503.982.5573
Facsimile: 503.982.6077
E-mail: bill.braun@reconex.com

Exhibit A

Affidavit of Joseph F. Brandes

Joseph F. Brandes, being first duly sworn upon oath, deposes and states as follows:

1. My name is Joseph F. Brandes and I serve as Chief Operating Officer of 1-800-Reconex, Inc., d/b/a U.S. Tel ("Reconex"). My business address is 2500 Industrial Avenue, Hubbard, Oregon 97032. I am an authorized representative of Reconex with respect to the foregoing Application for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky ("Application").

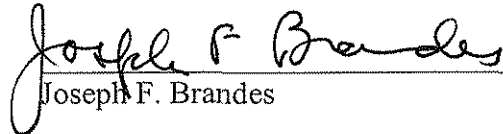
2. I have read the foregoing Application, and all information therein is true and correct to the best of my knowledge, information, and belief.

3. Reconex is a common carrier and provides (or will provide upon designation) all the services and functionalities supported by the federal universal service program, as set forth in Section 214(e) of the Act and Section 54.101(a)(1-9) of the FCC's rules, throughout the service area for which it seeks ETC designation in Kentucky. Reconex will also advertise the availability of the supported services and the corresponding charges through several different media of general distribution, throughout the service areas for which designation is requested. As an ETC, Reconex will also offer a universal service at reduced rates package to subscribers who are eligible for Lifeline and Link-Up support.

4. I certify that all federal high-cost universal service support will be used by Reconex only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996.

This concludes my affidavit.

Date: 2/6/06


Joseph F. Brandes

CERTIFICATE OF SERVICE

I hereby certify that I have on this 6th day of February, 2006, service a true and correct copy of the foregoing PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE COMMONWEALTH OF KENTUCKY on the following party by first-class, U.S. Mail:

Dorothy Chambers
BellSouth Telecommunications
601 West Chestnut Street
Louisville, Kentucky 40203



Jennifer Sikes

Paralegal for 1-800-Reconex, Inc., d/b/a U.S. Tel