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February 22, 2011

RECEIVED

FEB 24 2011

PUBLIC SERVICE
COMMISSION

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

RE: Express Phone Service, Inc.'s Application for Limited Designation as an Eligible Telecommunications Carrier.

Dear Mr. DeRouen:

2011-00064

Enclosed please find an original and ten copies of Express Phone Service, Inc.'s Application for Limited Designation as an Eligible Telecommunications Carrier.

Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via the enclosed self-addressed postage paid envelope.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

Enclosures

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FEB 24 2011

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of Express Phone Service, Inc. for)
Designation as an Eligible Telecommunications)
Carrier in the Commonwealth of Kentucky)

Case No. 2011- 00064

**APPLICATION OF EXPRESS PHONE SERVICE, INC. FOR
LIMITED DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE COMMONWEALTH OF KENTUCKY**

EXPRESS PHONE SERVICE, INC., by its undersigned counsel and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act"), hereby submits this Petition for Limited Designation ("Petition") as an Eligible Telecommunications Carrier ("ETC") throughout its service area in the State of Kentucky. Express Phone Service, Inc. seeks designation as an ETC for the wire centers of AT&T-KY, a non-rural incumbent LEC. The petitioner does not seek designation in any area served by a rural telephone company. Moreover, the petitioner does not seek high cost funding. This application is intended only to qualify Express Phone to participate in the low income programs, Lifeline and Link-Up. As demonstrated below, Express Phone Service, Inc. meets all of the requirements for designation as an ETC and Express Phone Service, Inc.'s designation will service the public interest. As the Commission has found, designating competitive carriers like Express Phone Service, Inc. as ETCs will benefit consumers by expanding the range of competitive choices.¹

¹ *Petition of SouthEast Telephone, Inc. for Designations as an Eligible Telecommunications Carrier*, Case No. 2002-00080 (Ky. PSC Sept. 17, 2002) (*SouthEast ETC Order*) at 3; *see also e-Tel Designation as an Eligible Telecommunications Carrier*, Order, Case No. 2002-00323 (Ky. PSC Nov. 26, 2002) ("*e-Tel ETC Order*") at 2.

I. EXPRESS PHONE SERVICE, INC.'S UNIVERSAL SERVICE OFFERING

Express Phone Service, Inc. is a competitive local exchange carrier (“CLEC”) headquartered in Pensacola, Florida that intends to offer services to Lifeline-eligible customers in Kentucky. Express Phone Service, Inc.’s offerings include local service, long distance and Internet access.

Express Phone Service, Inc. is a common carrier, consistent with the definition in 47 U.S.C. §153(10) and the requirements of 47 U.S.C. § 214(e)(1). The Commission has authorized Express Phone Service, Inc. to provide competitive local exchange services, intrastate interexchange service, and operator services throughout Kentucky.

Express Phone Service, Inc. is authorized to provide and will provide all the 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 the requested service area in Kentucky. Express Phone Service, Inc. will provide universal service by utilizing a combination of total resale service provisioned through an interconnection agreement with AT&T and service provided in combination of unbundled local elements formerly known as UNE-P through lease agreements (also known as commercial agreements) with ILECs such as AT&T together with resale of ILECs’ services. Designation of Express Phone Service, Inc. as an ETC will benefit Kentucky consumers by providing an additional ETC designated carrier with will actively promote and provide Lifeline and Link-Up services to qualified consumers, facilitating local competition on a level playing field, and giving ILECs incentives to improve their facilities and provide higher quality service due to the beneficial pressure of competition.

II. EXPRESS PHONE SERVICE, INC. SATISFIES ALL OF THE REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.

The legal standards governing ETC designation proceedings are found in Section 214(e) of the federal Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214(e); the FCC’s rules, principally 47 C.F.R. §§ 54.101 and 54.201; and the governing precedents of the federal courts and the FCC. Section 214(e) includes three requirements: a prospective ETC must show that, upon receiving designation, it will: (1) provide supported services throughout the services area for which it is designated, (2) do so using its own facilities (including unbundled network elements (“UNEs”) and/or a combination of its own facilities and resale of another carrier’s facilities; and (3) advertise the availability of these offerings through the media. 47 U.S.C. § 214(e)(1)(A) and (B). The “supported services” are listed in 47 C.F.R. § 54.101(a).² Finally, when a carrier seeks ETC designation in an area served by a “rural telephone company” as defined in the Act, the Commission must find that the designation of an additional telephone company is in the public interest.³ Express Phone Service, Inc. satisfies each of the elements required for ETC designation pursuant to Section 214(e) of the Act.

A. Express Phone Service, Inc. Offers Each of the Services Supported By the Federal High-Cost Universal Service Programs.

Express Phone Service, Inc. currently provides (or will provide upon ETC 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) of the FCC’s

² See *infra* Section II.A

³ 47 U.S.C. § 214(e)(2); see also 47 U.S.C. § 153(37) (definition of “rural telephone company”). However, this requirement does not apply to the instant petition, as the company is only seeking ETC designation in the service area of AT&T, a non-rural ILEC.

rules, on 100% of the lines it serves, throughout the AT&T service area in Kentucky, the area for which it seeks ETC designation.

In order to be designated as an ETC, a carrier must be a common carrier and both offer and advertise the supported services throughout the designated service area. 47 U.S.C. § 214(e)(1). 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:

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 service;
8. Access to directory assistance; and
9. Toll limitation for qualifying low-income consumers.

For purposes of ETC applications, carriers must certify that they provide each of the supported services, or where appropriate, its functional equivalent.⁴ As shown below and in the Declaration attached as Exhibit A hereto, Express Phone Service, Inc. currently provides, or will provide upon designation, each of the required services and functionalities on 100% of the lines it serves, throughout the area for which it seeks designation.

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

The FCC has concluded that voice-grade access means the ability to make and receive phone calls, within a specified bandwidth and frequency range.⁵ Express Phone Service, Inc. meets this requirement by providing voice-grade access to the public

⁴ See 47 C.F.R. § 54.101.

⁵ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776 at 8810-11 (1997) (“*First Report and Order*”).

switched telephone network. Through its interconnection arrangements with ATT, each of Express Phone Service, Inc.'s customers are able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. Local usage.

ETCs must include local usage beyond providing simple access to the public switched network as part of a universal service offering. Express Phone Service, Inc. includes unlimited local usage in each of its local 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.⁶ Express Phone Service, Inc. provides DTMF signaling consistent with the rules.

4. Single-Party Service Or Its Functional Equivalent.

“Single-party service” means that only one party will be served by a subscriber loop or access line (in contrast to a multi-party line).⁷ Express Phone Service, Inc. meets the requirement by providing single-party service throughout its service area.

5. Access to Emergency Services.

The ability to reach a public emergency service provider by dialing 911 is required in any universal service offering. Express Phone Service, Inc. currently provides its subscribers with access to 911 emergency services in accord with this requirement, and consistent with FCC regulations throughout the service area for which designation is sought.

⁶ 47 C.F.R. § 54.101(a)(3).

⁷ *First Report and Order*, 12 FCC Rcd at 8810.

6. Access to Operator Services.

Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.⁸ Express Phone Service, Inc. meets these requirements by providing all of its customers with access to operator services, including customer service and call completion.

7. Access to Interexchange Service.

An ETC must offer consumers access to interexchange service to make and receive toll or interexchange calls. Express Phone Service, Inc. meets this requirement by providing all of its customers with the ability to make and receive interexchange calls, including “equal access” enabling customers to reach their interexchange carrier of choice.

8. Access to Directory Assistance.

The ability to place a call to directory assistance is a required service offering.⁹ Express Phone Service, Inc. meets this requirement by providing all of its customers with access to directory assistance by dialing “411” or “555-1212”.

9. Toll Limitation for Qualifying Low-Income Consumers

An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no additional charge. 47 C.F.R. § 54.101 (a)(9). Express Phone Service, Inc. currently has no Lifeline customers because only carriers designated as ETCs can participate in the provision of Lifeline service. *See* 47 C.F.R. §§ 54.400-415. Once designated as an ETC, Express Phone Service, Inc. will participate in Lifeline as required, and will provide toll control and/or toll blocking capability in satisfaction of the Commission’s requirement. Express Phone Service, Inc. currently has the technology to

⁸ *Id.* at 8817-18.

⁹ *Id.* at 8821.

provide toll limitation and will utilize this technology to provide such functionality at no additional charge to Lifeline customers.¹⁰

B. Express Phone Service, Inc. 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 another carrier’s services.”¹¹ Express Phone Service, Inc. will provide universal service by provision lines through resale of ILEC’s services and utilizing various unbundled local elements in combination formerly known as UNE-P through lease agreements (also known as commercial agreements) with ILECs such as AT&T. The FCC has made it clear that purchase of UNEs satisfies the facilities requirement, and has specified certain high-cost funding limitations with respect to lines provided using UNEs.¹² Express Phone Service, Inc. is only seeking support for the provision of Lifeline and Link-Up services and, specifically is not requesting high-cost support. In this regard, the proposal of Express Phone Service, Inc. is identical to that of New Talk, Inc. in Case No. 2008-0539 wherein this Commission granted New Talk’s request for an ETC designation limited to low-income support.

C. Express Phone Service, Inc. Will Advertise Its Universal Service Offering.

Express Phone Service, Inc. will advertise the availability of the supported service and the corresponding charges in a manner that informs the general public within the designated service area of both the services available and the corresponding charges. Express Phone Service, Inc. will advertise its universal service offerings throughout the

¹⁰ See *Virginia Cellular ETC Order*, ¶ 22.

¹¹ 47 U.S.C. § 214(e)(1)(A).

¹² *First Report and Order*, 12 FCC Rcd at ¶¶ 154-68.

service area designated by the Commission through notices using media of general distribution. Express Phone Service, Inc. also commits that, once it receives ETC designation, it will provide notices of its Lifeline and Link Up discounted services at local unemployment, social security, and welfare offices.¹³

III. EXPRESS PHONE SERVICE, INC. REQUESTS DESIGNATION THROUGHOUT THE AT&T SERVICE AREA IN KENTUCKY

Express Phone Service, Inc. requests ETC designation for the entire AT&T 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.” 47 C.F.R. § 54.207(a). For service areas served by non-rural ILECs, there are no restrictions on how a state commission defines the “service area” for purposes of designating a competitive ETC. *Id.*

Express Phone Service, Inc. is not applying for designation as an ETC in an area served by a rural telephone company.

IV. GRANTING THIS PETITION WILL SERVICE THE PUBLIC INTEREST.

A. As AT&T is a non-rural ILEC, there is no need to conduct a public interest analysis.

Express Phone Service, Inc. notes that ATT is not a “rural telephone company” under 47 U.S.C. § 153(37). Section 214(e)(2) of the Act expressly requires that a state commission conduct a public interest analysis “[b]efore designation an additional eligible telecommunications carrier for an area served by a rural telephone company...” As Express Phone Service, Inc. is not petitioning for ETC designation in a service area served by a rural telephone company, there is no need for the Commission to determine

¹³ *Virginia Cellular ETC Order*, ¶ 25.

whether or not designation of Express Phone Service, Inc. is in the “public interest.” Nevertheless, the public interest will be served by granting the sought-after ETC. Kentucky consumers will be benefited by an additional ETC designated carrier which will actively promote and provide Lifeline and Link-Up services to qualified consumers. Granting the requested designation will furthermore facilitate local competition on a level playing field, and give ILECs incentives to improve their facilities and provide higher quality service due to the beneficial pressure of competition.

V. HIGH-COST CERTIFICATION.

Express Phone Service, Inc. is not seeking high-cost support and suggests that, like New Talk, Inc. in Case No. 2008-00539, the Commission grant the requested ETC designation limited to low-income support.

VI. ANTI-DRUG ABUSE CERTIFICATION.

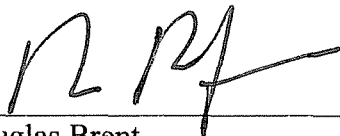
Express Phone Service, Inc. certifies that no party to this petition is the subject of a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862 (*See Exhibit A*).

CONCLUSION

Express Phone Service, Inc. respectfully requests that the Commission designate it as an ETC in Kentucky on an expedited basis.

Respectfully submitted,

Express Phone Service, Inc.

By: 

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(notice of admission to be filed)
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Its Counsel

Exhibit A
Affidavit of Thomas Armstrong

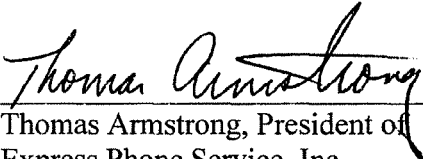
STATE OF FLORIDA)
COUNTY OF ESCAMBIA)

Thomas Armstrong, being duly sworn upon oath, depose and states as follows:

1. My name is Thomas Armstrong and I serve as President of Express Phone Service, Inc. My business address is 1803 W. Fairfield Drive, Unit 1, Pensacola, FL 32501. I am an authorized representative of Express Phone Service, Inc. 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 to the best of my knowledge, information, and belief.
3. Express Phone Service, Inc. is a common carrier and provides (or will provide upon designation) all the service and functionalities supported by the federal universal service program, as set forth in Section 214(e) of the Act and Section 54.101(a) of the FCC’s rules, throughout the service area for which is seeks ETC designation in Kentucky, *i.e.*, the areas served by AT&T, as depicted in Exhibit B. Express Phone Service, Inc. also advertises the availability of the supported services and the corresponding charges throughout several different media of general distribution, throughout the service areas for which designation is requested. As an ETC, Express Phone Service, Inc. will also offer a universal service at reduced rates package to subscribers who are eligible for Lifeline and Link-Up support. The manner in which Express Phone Service, Inc. satisfies these requirements is described in greater detail in the Application.
4. A grant of Express Phone Service, Inc.’s application will service the public interest by bringing consumers the benefits of additional competitive universal service offerings and increasing the number of ETC designated carriers actively marketing and providing Lifeline and Link-Up services in Kentucky.
5. High-Cost Certification. Express Phone Service, Inc. certifies that it will not seek high-cost universal service support funding and that its application is limited to low-income support.
6. Anti-Drug Abuse Certification: To the best of my knowledge, the applicant referred to in the foregoing Application, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant as specified by Section 1.2002(b) of the FCC’s

rules, are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Further Affiant sayeth not.


Thomas Armstrong, President of
Express Phone Service, Inc.

Sworn and subscribed to before me this 21st day of February, 2011, under penalties of perjury.

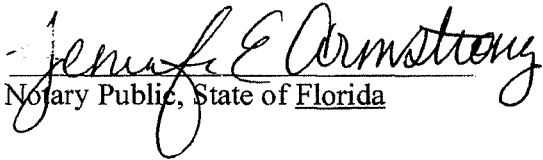
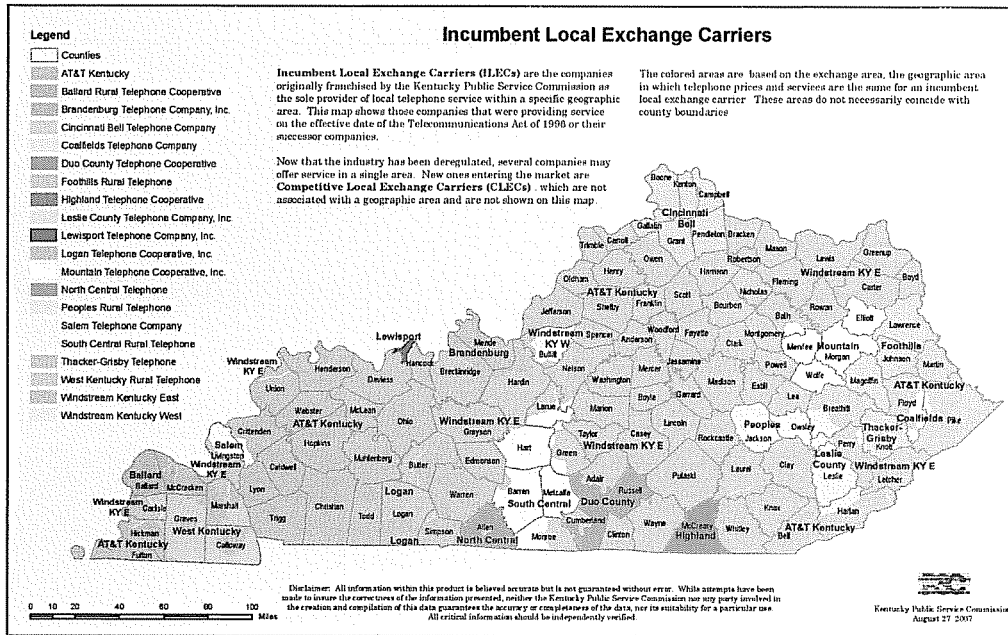

Notary Public, State of Florida



Exhibit B Map of Express Phone Service, Inc.'s Service Area



In the above graphic, the AT&T service area in Kentucky – the area for which Express Phone Service, Inc. seeks ETC designation – is denoted in blue.

This image is also available at <http://psc.ky.gov/agencies/psc/images/lecbycounty.pdf>.