

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 8, 2009

IN RE:

APPLICATION OF IMAGE ACCESS, INC. D/B/A
NEWPHONE FOR CERTIFICATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

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DOCKET NO.
08-00143

ORDER DESIGNATING IMAGE ACCESS, INC. AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

This matter came before Chairman Eddie Roberson, Director Sara Kyle, and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on May 18, 2009, for consideration of the *Application for Certification as an Eligible Telecommunications Carrier* (“*Application*”) filed by Image Access, Inc. d/b/a NewPhone (“NewPhone”) on August 4, 2008.

BACKGROUND

NewPhone filed its *Application* pursuant to 47 U.S.C. § 214(e)(2) and 47 C.F.R. §§ 54.101-54.207 for the purpose of receiving low-income federal universal service support throughout the Tennessee service territories of BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee (“AT&T”). In the *Application*, NewPhone states that it satisfies all of the statutory and regulatory requirements for designation as an Eligible Telecommunications Carrier (“ETC”).

NewPhone states that it is not seeking ETC designation in any of the rural independent telephone company service areas. NewPhone explains that granting the ETC designation will enable it to obtain federal universal support to be used to further expand its offerings of services at competitive prices to its Lifeline customers.

FINDINGS AND CONCLUSIONS

To be designated as an ETC, a carrier is required to demonstrate that the designation is in the public interest. An Applicant must show that it is authorized to offer telecommunications services in the area for which it is seeking ETC status. The Applicant also has to provide services supported by the federal universal service support mechanisms and advertise the availability of and charges for such services. The Applicant must also use its own facilities or a combination of its own facilities and resale of another carrier's services to provide telecommunications services. The Applicant is required to make Lifeline service available to qualifying low-income consumers and to advertise such availability of the service in a manner reasonably designed to reach those likely to qualify for the service. Furthermore, the Applicant must use federal universal support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹

During the regularly scheduled Authority Conference on May 18, 2009, the panel considered NewPhone's *Application*. Based upon the entire record, the panel made the following findings.

1. NewPhone is authorized to provide telecommunications services in the areas for which it seeks ETC designation.
2. NewPhone offers the supported services, which include: voice grade access to the public switched network; local usage; Dual Tone Multi-frequency Signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access

¹ See 47 U.S.C. § 214 (e)(2) (2005); 47 C.F.R. § 54.201 through 54.207. The Authority has addressed these standards in *In re: Universal Service Generic Contested Case*, Docket No. 97-00888, *Order Establishing Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(2), of the Telecommunications Act of 1996 and FCC Order 97-157*, pp. 1-5 (November 3, 1997). Further, the Authority has applied the standards in various dockets including *In re: Petition of Cinergy Communications Company for Designation as an Eligible Telecommunications Carrier*, Docket No. 06-00033, *Order Designating Eligible Telecommunications Carrier* (March 30, 2006). Finally, it should be noted that the Authority opened a rulemaking in Docket No. 05-00284 for ETC designation, reporting and Lifeline service. However, the rules are pending approval of the Attorney General's office. Therefore, the rules are not effective and were not applied in this docket.

to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income customers. Additionally, NewPhone demonstrated that it does advertise its service offerings.

3. NewPhone has the ability to utilize its own facilities, unbundled network elements (“UNEs”) and/or combinations thereof, and resale of another carrier’s services to provide its services.

4. With its Lifeline tariff and its assertions regarding publication or advertisement of Lifeline availability, NewPhone demonstrates its intent to comply with the requirement to publicize and make available Lifeline service.

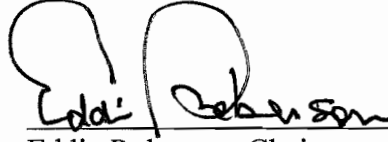
5. NewPhone has demonstrated its intent to use the available federal universal support in a manner that is consistent with the FCC rules by applying the support received as a per-line reduction to its rates for Lifeline customers, and that it will contribute to the maintenance and upgrading of facilities through the service rates and charges it will pay for the use of AT&T UNEs.

6. Designating NewPhone as an ETC eligible only for low-income universal service support is in the public interest because (a) NewPhone offers its services to rural areas that are reasonably comparable to those provided in urban areas; (b) NewPhone does not restrict service offerings to basic service for Lifeline qualified consumers; and (c) NewPhone has committed to provide additional competitive enhanced services to consumers in all of the requested AT&T service areas and, if it is designated as an ETC, to apply federal support it receives as discounts, or rate reductions, to its low-income wireline telecommunications services subscribers qualified for Lifeline service.

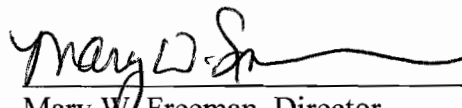
Thereafter, the panel voted unanimously to grant the *Application* and to designate NewPhone as an ETC in the AT&T Tennessee service areas for the purpose of receiving low-income federal universal service support.

IT IS THEREFORE ORDERED THAT:

The *Application for Certification as an Eligible Telecommunications Carrier* filed by Image Access, Inc. d/b/a NewPhone is granted.


Eddie Roberson, Chairman


Sara Kyle, Director


Mary W. Freeman, Director