

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

IN THE MATTER OF THE APPLICATION OF)
DPI TELECONNECT, LLC)
FOR DESIGNATION AS AN ELIGIBLE) **CASE NO. _____**
TELECOMMUNICATIONS CARRIER)

**APPLICATION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

dPi Teleconnect, LLC (“dPi” or the “Applicant”), 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 the rules and regulations of the Missouri Public Service Commission, including 4 CSR 240-3.570, hereby applies to the Commission for designation as an Eligible Telecommunications Carrier (“ETC”), and in support of its Application, states the following:

1. dPi seeks ETC designation throughout the Southwestern Bell Telephone Company, L.P. d/b/a AT&T Missouri service territories, as set forth in the list of exchanges attached hereto as Exhibit I (the “Designated Service Area”), for the purpose of receiving federal universal service support. The Applicant 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 as an ETC 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.

2. The name and address of Applicant's attorney is:

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All correspondence, pleadings, filings, and orders should be directed to Mr. Johnson.

I. Background.

3. dPi is a Delaware limited liability company³ and is authorized to conduct business as a foreign limited liability company in the State of Missouri. Copies of the Applicant's Articles of Organization and authority to transact business in the State of Missouri are on file with the Commission and incorporated herein by reference. A copy of the Applicant's Certificate of Good Standing is attached hereto as Exhibit II. The Applicant was granted a Certificate to Provide Basic Local and Exchange Access Telecommunications Service in the State of Missouri in Case No. TA-2000-44 by Order effective November 29, 1999. The principal office of the Applicant is located at 2997 LBJ Freeway, Suite 225, Dallas, TX 75234. The telephone number of the Applicant is 972-488-5500. The Applicant 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 ("UNEs") obtained through agreements with AT&T that allows end-to-end switching delivery of calls.

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

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

5. 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.

6. dPi is a common carrier as that term is defined in the Act.⁷ The Applicant provides competitive local telecommunications services in the Designated Service Area pursuant to certification granted in Case No. TA-2000-44 referenced above.

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

7. dPi offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs, or the equivalents thereof, through commercial agreements. 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 Applicant satisfies the requirement set forth in Section 214(e)(1)(A).

8. 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); and 4CSR 240-3.570(3)(C). 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

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 UNEs, or equivalents thereof, meets this definition of "facilities."

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 and Emergency telephone number services capable of automatic number identification, automatic location identification, and call routing facilities to public safety response. "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;
- i) Toll limitation and/or blocking for qualifying low-income consumers; and
- j) Access to telecommunications relay services by dialing 711.

9. Pursuant to 4 CSR 240-3.570(3)(A), the Applicant shall develop a bill design that can be easily interpreted by its customers and clearly sets forth charges in compliance with state and federal billing requirements.

10. Pursuant to 4 CSR 240-3.570(3)(B), the Applicant shall provide customer service contact information online and on billing statements. Applicant acknowledges that this requirement also applies to ETCs that use a third party billing agent.

11. Pursuant to 4 CSR 240-3.570(3)(E), the Applicant shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; the resolution; and the amount of refund or credit, if any. Applicant shall

also maintain record of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission for which the company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any.

12. Pursuant to 4 CSR 240-3.570(3)(F), the Applicant shall, within ten (10) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customer; and informational or tariff filing issues.

13. Upon Designation as an ETC, dPi will participate in, and offer, LifeLine and Link-Up discounts 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 Rules⁹ and pursuant to 4 CSR 240-3.570(2)7.

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

14. dPi will advertise the availability of services and charges for those services using media of general distribution throughout the Designated Service Area, as required by FCC Rules¹⁰ and pursuant to 4 CSR 240.3.570(2)6.

III. Area for Which ETC Certification Is Requested

15. 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 Designated Service Area. dPi does not seek Designation as an ETC in any areas served by rural telephone companies.

IV. Granting dPi's Application Will Be Consistent with the Public Interest, Convenience and Necessity

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

¹⁰ See 47 C.F.R. §§ 54.201(d)(2).

¹¹ See 47 U.S.C. 214(e)(2).

¹² See *Id.*

17. A central purpose of the Telecommunications Act of 1996 was to “promote competition and reduce regulation ... [thereby securing] lower prices and higher quality services.”¹³ Designation of dPi as an ETC would further these goals.

18. Pursuant to 4 CSR 240-3.570(2)6, dPi will announce and advertise telecommunications services as an ETC where it provides service in its Designated Service Area in Missouri 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 Missouri 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. dPi advertises its services through several different media of general distribution including (but not limited to) marketing at targeted retail locations, including rent-to-own centers, as well as advertisements via television, radio, newspapers and trade magazines. A copy of a sample sales brochure is attached hereto as Exhibit III. A copy of a sample newspaper advertisement is attached hereto as Exhibit IV.

19. Since Applicant provides service exclusively to credit challenged customers who generally cannot obtain service from the ILEC, AT&T of Missouri, the granting of ETC status is clearly in the public interest, because the services are simply not available to a significant portion of the eligible low income consumers. To Applicant’s knowledge, Lifeline and Link-Up services are not being sufficiently advertised and made available to eligible low income consumers in the

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

Designated Service Area. According to the best data available to Applicant, as of December 31, 2006, only between 10% and 20% of consumers eligible for Lifeline and Linkup Services in the State of Missouri were being provided such services. Please see attached Exhibit V, 2006 Lifeline Participation Rates by State, which was obtained from the Universal Service Administrative Company (“USAC”), an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the Federal Communications Commission (FCC). USAC administers Universal Service Fund (USF) programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries.

20. A grant of dPi’s application will serve the public interest by increasing customer choice for eligible low-income customers and the market as a whole by promoting additional deployment of dPi’s local exchange service offerings to the areas served by AT&T Missouri. As shown further below, dPi offers quality service at affordable prices. dPi adds another choice of provider for low-income customers in the Designated Service Area. If designated as an ETC, Applicant will offer service to many low-income customers who may not have been able to have service but for the Applicant. In addition, the public interest will be served by assuring quality telecommunications service to low-income customers in the Designated Service Area through the commitments Applicant makes with respect to the ETC Order. An additional part of the FCC’s public interest assessment includes a “cream skimming” analysis if the ETC applicant is seeking designation below the study area level of a rural telephone company. Since Applicant does not seek designation below the study area level of a rural telephone company, no “cream skimming” analysis is required.

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

22. Pursuant to 4 CSR 240-3.570(2)9, dPi acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in the Designated Service Area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996. The FCC's ETC Order does not impose a general equal access requirement on ETC applicants at this time, but instead suggests the applicants acknowledge that an ETC applicant may be required to provide equal access to long distance carriers in their designated service area in the event that no other ETC is providing equal access within the service area. Applicant acknowledges this potential and will abide by the requirement should it occur in the future.

23. 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).

24. Pursuant to 4 CSR 240-3.570(2) (A)1-3, each request for ETC designation shall include: the intended use of the high-cost support; including a two year plan to demonstrate the proper use of high-cost support. 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 per FCC guidelines is not required at this time; and the provisions of 4 CSR 240-3.570(2) (A)1-3 are not applicable to Applicant. Based upon the foregoing, Applicant respectfully requests a waiver of 4 CSR 240-3.570(2) (A)1-3. Since Lifeline support is designed to reduce the monthly cost of telecommunications services for eligible consumers, and is distributed on a per-customer basis and is directly reflected in the price that the eligible customer pays, it is assured that all support received by the carrier is used to provide Lifeline services to consumers, thus promoting Lifeline and the availability of telephone service to low income users, which is clearly in the public interest.

25. Pursuant to 4 CSR 240-3.570(2)10, Applicant is committed to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Applicant offers a local usage plan with unlimited calling within the customer's local calling area for a flat monthly fee with the same calling scope as AT&T. Applicant offers a basic plan, and a complete plan, which includes unlimited local calling and 10 calling features. Such commitment shall include a commitment to provide Lifeline and Link Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area. Since the incumbent local exchange carrier in the Designated Service Area does not offer services to the targeted low income consumer base that Applicant intends to serve, Applicant's proposed offerings of Lifeline and Link-Up services will clearly be in the public interest. The

Applicant intends to provide customers service at the rates as follows, which is comparable to the plan offered by AT&T in the Designated Service Area as follows:

Plan	<u>AT&T</u>		<u>dPi</u>	
	Basic	Complete	Basic	Complete
Rate	\$13.75	\$30.00	\$19.95	\$29.95
FCC pass thru	\$ 6.50	\$ 6.50	\$ 6.50	\$ 6.50
911	\$.50	\$.50	\$.50	\$.50
Total Cost	\$20.75	\$37.00	\$26.95	\$36.95
Less Discount	\$13.50	\$13.50	\$13.50	\$13.50
Net Cost	\$ 7.25	\$23.50	\$13.45	\$23.45

Please note that in the State of Missouri, most of Applicant’s current customers subscribe to the Complete Plan.

26 Under FCC and Commission 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; and 4 CSR 240-3.570 (2) 8. 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.

27. Under FCC and Commission 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; and 4 CSR 240-3.570 (2) 4. Since Applicant will provide 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, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

28. 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. Furthermore, as stated above, Applicant is eligible for ETC designation since it offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs, or the equivalents thereof, through commercial agreements. 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. Although it has been argued in the Commission's Decision in Case No. CO-2006-0464, that Applicant is trying to reside on the outside fringes of what this Commission requires for ETC designation, because Applicant is making the most

minimal commitment to satisfy the “own facilities” requirement for the provision of service, this is exactly what was contemplated by the FCC. Otherwise, no competitive carriers providing service without the use of its own facilities would ever be eligible for ETC designation, which is clearly not the case. Furthermore, unlike the applicant in Case No. CO-2006-0464, dPi is actually providing service in the State of Missouri by means of resale and UNE’s. Based upon the foregoing, Applicant respectfully requests a waiver of the requirements of 4 CSR 240-3.570(2)(C) and 4 CSR 240-3.570(3)(C)(3). Since Applicant will be providing service to customers only in the AT&T service area, the Applicant anticipates that it will be able to provide service to all customers making a reasonable request for service. However, in the event that Applicant is not able to provide service to a customer making a reasonable request for service in the Designated Service Area, pursuant to 4 CSR 240-3.570(3)(C)(3)(B), Applicant will attempt to offer resold service of other carriers that have facilities available to that premises. Furthermore, pursuant to 4 CSR 240-3.570(3)(C)(3)(D), if there is no possibility of providing service to the requesting customer, Applicant will notify the customer and include such information in Applicant’s annual certification documentation to the Commission.

29. The Applicant has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application. No Commission annual reports or assessment fees are overdue.

30. To the best of the Applicant's knowledge, its account is current with the FCC in regards to regulatory fees; and its account is current with the Universal Service Administrative Company in regards to universal service contributions. The Applicant is aware that there may be an audit of the use of universal service funds and that the eligible telecommunications service designation is reviewed annually by state commissions.

31. Applicant has been granted designated an ETC by the States of Alabama, Florida Kansas, Louisiana, North Carolina, Oklahoma, South Carolina, Texas, and Arkansas. No state has denied any ETC petition filed by Applicant, nor have any such petitions been withdrawn, other than the Applicant's original filing in the State of Missouri. Applicant has a petition for ETC designation pending in Georgia.

V. 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,

/s/ Mark P. Johnson

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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have on this 7th day of August, 2009, served a true copy of the foregoing Application upon the following parties, listed below, in accordance with Commission rules.

Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102

General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

/s Mark P. Johnson

Mark P. Johnson

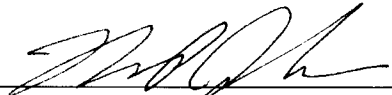
VERIFICATION

STATE OF MISSOURI)
)
COUNTY OF JACKSON) ss.

Comes now Mark P. Johnson, being of lawful age and duly sworn, and states the following:

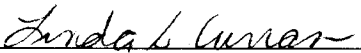
1. My name is Mark P. Johnson and I am attorney for dpi Teleconnect, LLC. I have been authorized to execute this Affidavit on behalf of dpi Teleconnect, LLC.
2. I have reviewed the foregoing Application and state that its contents are true and accurate to the best of my knowledge and belief.

Further affiant sayeth not.



Mark P. Johnson

Subscribed and sworn to before this 7th day of August, 2009.



Notary Public

My commission expires:

