

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of January, 2011.

In the Matter of the Application of)
dPi Teleconnect, LLC for Designation as) **File No. CO-2010-0054**
an Eligible Telecommunications Carrier)

**ORDER GRANTING APPLICATION TO AMEND
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Issue Date: January 19, 2011

Effective Date: January 29, 2011

Syllabus: The Missouri Public Service Commission grants an amendment to the eligible telecommunications carrier (“ETC”) status of dPi Teleconnect, LLC (“dPi”) for the purpose of providing wireless service in the exchanges served by AT&T Missouri for which dPi has already been granted ETC status.

Procedural History

On August 7, 2009, dPi applied to the Commission for designation as an eligible telecommunications carrier (“ETC”), for the purpose of receiving low-income and disabled customer support. dPi’s application is limited to a request to receive only low-income federal Universal Service Fund support for Lifeline, support related to giving qualifying low-income customers discounts on monthly rates and LinkUp, and support designed to provide qualifying low-income customers discounts on initial connection fees. dPi is not requesting federal high-cost USF support or Missouri state USF support. The Commission granted dPi’s application on June 9, 2010.

On October 8, 2010, dPi filed an application in which it seeks to amend its status to include the provision of wireless services. dPi also seeks a waiver of certain Commission rules.

On December 29, 2010, the Staff of the Commission filed its Recommendation. Staff recommends that the Commission approve the application, with certain conditions, and grant the requested waivers.

Commission Rule 4 CSR 240-2.080(15) allows parties ten days to respond to pleadings, unless otherwise ordered. dPi did not respond to Staff's Recommendation within the allotted ten days.

Discussion

The application is within the Commission's jurisdiction to decide.¹ Because no party objects to dPi's application, no evidentiary hearing is required.² Thus, the Commission deems the hearing waived,³ and bases its findings on the verified filings, and makes its conclusions as follows.

dPi is a Delaware limited liability company authorized to do business in Missouri. dPi is a competitive local exchange carrier and holds a certificate of service authority to provide basic local exchange services in its service area. Within the last three years before the application's filing, no pending action or final unsatisfied judgment or decision, involving customer service or rates, has occurred in any state or federal agency or court against dPi, and dPi has no overdue annual report or assessment fees.

¹ 47 U.S.C. § 214(e)(2).

² *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494 (Mo.App. 1989).

³ Section 536.060, RSMo 2000.

The federal Universal Service Fund was established in the Telecommunications Act of 1996. The stated purpose of the fund is to ensure that telephone customers in rural and high cost areas, as well as low-income customers, have access to quality telecommunications services at reasonable and affordable rates.⁴ To meet that goal, the Universal Service Fund redistributes money paid into the fund by telecommunications customers to telecommunications service providers who serve rural and high cost parts of the country. Before a telecommunications service provider is eligible to receive funding from the Universal Service Fund, it must be designated as an Eligible Telecommunications Company, referred to by the acronym ETC.

The Telecommunications Act established two factual criteria for determining whether an applicant may be designated as an ETC. First, the applicant must offer the services that are supported by the Universal Service Fund throughout the service area for which the designation is received.⁵ The applicant can offer those services either through its own facilities, or a combination of its own facilities and the resale of another carrier's services. Second, the applicant must advertise the availability of such services and the charges therefor using media of general distribution.⁶

dPi requests waivers of Commission Rules 4 CSR 240-3.570(2)(A)1-3 (requiring filings regarding the intended use of high-cost support), (2)(C) (plans for handling unusual construction or installation charges), and (3)(C)(3) (plans for extending the carrier's network). Staff states that these regulations are applicable only for carriers

⁴ 47 U.S.C. 254(b).

⁵ 47 CFR 54.101(a) (which requires ETCs to offer (1) Voice grade access to the public switched network; (2) Local usage; (3) Dual tone multi-frequency 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; (9) Toll limitation for qualifying low-income consumers; and (10) Access to telecommunications relay services by dialing 711.

⁶ 47 U.S.C. 214(e)(1).

seeking **high**-cost support. Because dPi seeks only **low**-cost support, Staff recommends granting the waivers.

The Commission finds the allegations in the Application and its supplements, and Staff's Memorandum and Recommendation to be true. The Commission must grant dPi eligible telecommunications carrier designation if it offers the services set out in Section 254 of the Act and if it advertises the availability of those services using media of general distribution.⁷ The Commission finds that dPi has met those requirements. Therefore, the Commission will amend dPi's designation as an eligible telecommunications carrier to allow it to provide wireless service. However, before dPi can provide wireless service, it must file an updated tariff with an effective date thirty days from the date of issuance stating the rules and regulations governing its provision of such services.

Also, the Commission notes that dPi asked that, if Missouri law is revised so as to allow wireless carriers to receive support from the Missouri Universal Service Fund, dPi will then also become eligible to receive such support by Commission approval of this Application. The Commission will deny that request, and require dPi to submit further application to the Commission so as to allow Staff to recommend whether dPi would be eligible for such support.

Finally, the Commission may waive regulations based upon good cause.⁸ Good cause exists to waive those regulations due to dPi's application being limited to seeking only federal low-cost USF support.

⁷ 47 U.S.C. § 214(e)(1), (2).

⁸ Commission Rules 4 CSR 240-2.015(1), 3.015(1).

THE COMMISSION ORDERS THAT:

1. The Application of dPi Teleconnect, LLC to Amend its Designation as an Eligible Telecommunications Carrier is granted, except that the Commission denies the request for approval of this application to serve as a determination of future eligibility for Missouri Universal Service Fund support.

2. dPi Teleconnect, LLC shall receive an amendment to its eligible telecommunications carrier status so that it may provide wireless service throughout the Southwestern Bell Telephone Company, L.P., d/b/a AT&T Missouri service territories, as set forth in Exhibit B to its application, under the provisions of 47 U.S.C. §§ 214 and 254, to receive low-income federal universal service fund support, including the receipt of Lifeline and Linkup support.

3. Before dPi Teleconnect, LLC provides wireless service, it must file, prior to the provision of any wireless service, an updated tariff with an effective date thirty days from the date of issuance, stating the rules and regulations governing its provision of such service.

4. The requirements of 4 CSR 240-3.570(2)(A)1-3, 4 CSR 240-3.570(2)(C), and 4 CSR 240-3.570(3)(C)(3) are waived.

5. This order shall become effective on January 29, 2011.
6. This case shall be closed on January 30, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge