ORIGINAL

GENERAL ADMINISTRATIVE ORDER
OF THE INDIANA UTILITY REGULATORY COMMISSION
2013-2

WHEREAS, Indiana Code § 8-1-2.6-13(d)(5) authorizes the Indiana Utility Regulatory Commission ("IURC" or "Commission") to designate ETCs under 47 U.S.C. 214; and

WHEREAS, on November 5, 1997, the Commission issued an Order in Cause No. 40785 establishing procedures to be followed by entities seeking ETC designation for the purpose of receiving compensation from the federal Universal Service Fund, and on November 6, 1997, the Commission issued a Preliminary Order in Cause No. 41052 setting forth the application requirements for seeking ETC designation; and

WHEREAS, since issuance of the Preliminary Order in 1997, substantial changes in the industry and the law have occurred and, as a result, many of the application requirements contained in the Preliminary Order for designation as an ETC have substantially changed or are no longer applicable, while other requirements have been added by the Federal Communications Commission or at its direction; and

WHEREAS, pursuant to Indiana Code § 8-1-2-58, the Commission initiated an investigation in Cause No. 44274 to review and consider the appropriate procedure for updating the current application requirements and addressing changes to those requirements when they occur; and

WHEREAS, the Commission provided notice of its intention to update the current application requirements for ETC designation in a GAO, to which there were no objections; and

WHEREAS, on February 27, 2013, the Commission issued an Order in Cause No. 44274 directing the General Counsel for the Commission to prepare a draft GAO setting forth the application requirements for requesting ETC designation, and to distribute same on or before April 1, 2013 to the parties in Cause No. 44274 for their review and comment;

WHEREAS, the General Counsel has distributed a Draft GAO to parties and stakeholders, and comments have been received and considered by the Commission;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the ETC Filing Guidelines which are attached to this General Administrative Order as Appendix A, are hereby adopted by the Commission.

James D. Atterholt, Chairman

Kari A.E. Bennett, Commissioner

Larry S. Landis, Commissioner

Absent
Carolene Mays, Commissioner

David E. Ziegner, Commissioner

I hereby certify that the above is a true and correct copy of the order as approved.

Brenda Howe
Secretary to the Commission

Date: JUN 26 2013

General Administrative Order 2013-2 – Appendix A

ETC Filing Guidelines

ETC Petitioners must provide the following in their petition:

1. Petitioner must clearly state the purposes for which eligible telecommunications carrier (ETC) designation is sought (Lifeline-only, High Cost, Mobility Fund, other). If the company offers more than one type of communications service (for example, a company with both a CLEC and wireless operation), clearly state which entity or operation requests ETC designation.

2. Petitioner must offer the supported services pursuant to 47 CFR 54.101.[1]
   a. Voice Telephony - Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent;
   b. Minutes of use for local service provided at no additional charge to end users;
   c. Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and
   d. Toll limitation services to qualifying low-income consumers as provided in 47 C.F.R. 54.101(a)(2) if applicable under FCC rules.

3. Petitioner should specify the designated service area for which ETC designation is sought by providing the following:
   a. All ETC Petitioners must submit appropriate maps in a geospatial format (i.e. geodatabase shape file) that outline the proposed designated service area in a format that is useful, legible and consistent with applicable FCC requirements.
   b. ETCs seeking High Cost Funds such as Mobility, Connect America Fund (CAF) or other High Cost support mechanisms as defined in 47 C.F.R. 54.5 must submit a list of ILEC wire centers (unless other geographic units are specified by FCC rules) and rural ILEC study areas[2] if required by FCC rules.
   c. Petitioners that seek ETC designation solely for the purpose of offering Lifeline services should, at a minimum, file a list of non-rural ILEC service territories and rural ILEC study areas that they propose to serve.[3] Lifeline-only wireless ETC Petitioners must also submit a wireless coverage area map that demonstrates they have the ability to serve their entire proposed designated service area. The coverage area should match the proposed designated service area in (a) above as closely as possible. (47 U.S.C. 214(e))

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[1] The Order in Cause No. 41052 enumerates the old functionalities. The FCC changed the supported services in November 2011.
[2] FCC 97-157, footnote 434 states that a "study area" is usually an ILEC's existing service area in a given state.
[3] 47 C.F.R. 54.207 (c) if a state commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the [FCC] will consider that proposed definition in accordance with the procedures set forth in [subsections (c)(1) through (2)(e)].

4. Petitioner must demonstrate it is a common carrier that will serve its entire designated service area. If petitioner seeks to serve rural ILEC territories it should demonstrate it will serve the rural study area in its entirety or that it has obtained FCC forbearance from 47 C.F.R. 54.207. (47 U.S.C. 214(e)(5))

5. Petitioner must demonstrate it is certified by the IURC pursuant to Indiana Code 8-1-32.5 to provide the communications services for which universal service support is sought. In addition, Petitioner should demonstrate that all entity names, including trade names or branding names proposed to be used for the supported services, are registered with the Indiana Secretary of State and that the IURC has been notified of any changes to its CTA pursuant to I.C. § 8-1-32.5-12.

6. Petitioner should indicate whether the company will offer toll blocking and toll control and if the company seeks federal reimbursement for toll control. (47 C.F.R. 54.101) Note: federal reimbursement is scheduled to be phased out by 2014.

7. Petitioner should show how the carrier's offering will be promoted and how the terms of Lifeline service will be disclosed to customers. (Provide sample advertising, a link to company Web site, etc.) (47 C.F.R. 54.201(d)(2))

8. Petitioner must state whether it will offer the services that are supported by federal universal service support mechanisms using its own facilities or a combination of its own facilities and resale of another carrier's services. (47 C.F.R. 54.201(i))

a. Wireless resellers that seek ETC designation for Lifeline only must obtain blanket forbearance from the FCC by obtaining FCC approval of a compliance plan and committing to certain 911 conditions. The FCC approved compliance plan must be filed with the petition.

b. Wireless resellers should provide the name of the facilities based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Indiana that will cover the proposed designated service area. (47 C.F.R. 54.201(d)(1))

9. A Petitioner that seeks ETC designation only for the purposes of seeking federal reimbursement from the federal low income Lifeline program must demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 C.F.R. 54.400 through 54.422. To make such a showing prospective ETCs should provide: (47 C.F.R. 54.201(h))

a. Articles of Incorporation.
b. A balance sheet or audited financial statement (or unaudited sworn statement if an audited statement is not available) for the most recent fiscal year ending.
c. Business and financial documentation that shows applicant is a going concern and has access to sufficient capital such as:
    1) The company's detailed business plan for Indiana for the current and next two (2) fiscal years;
    2) Address(es) of the company's Indiana business facilities and customer service centers;
    3) The location and number of employees the company will station in Indiana to provide customer service.
    4) Documentation of a loan application and evaluation by a federally insured depository institution; or
    5) Documentation of an equity offering overseen and evaluated by a federally regulated broker or investment banker.

d. An explanation of how long it has been in business and how many customers it currently has (both at the state level and national level). If the company provides wireline and wireless services the company should provide information for both the wireline and wireless operation.
e. An explanation as to whether the applicant previously offered services to non-Lifeline customers.
f. Sufficient background, education and career history to demonstrate that management has sufficient administrative and technical expertise to effectively manage the company's operations.

10. Petitioner must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. A common carrier seeking ETC designation solely for the purpose of seeking reimbursement from the federal low income program does not need to submit such a five-year plan. (47 C.F.R. 54.202(a)(1)(ii))

11. Petitioner must demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. (47 C.F.R. 54.202(a)(2))

12. Petitioner must demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis. (47 C.F.R. 54.202(a)(3))

13. Petitioners seeking reimbursement only from the Low Income Fund must specify the number of minutes that will be provided free of charge or at no additional per minute charge to end users and describe the terms and conditions of any voice telephony service plan(s) offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan; additional charges, if any, for toll calls; and rates, fees and charges for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it should provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans. (47 C.F.R. 54.202(a)(5))

14. Under federal law the Commission must consider the following factors to determine whether the designation of the ETC is in the public interest: a) the benefits of increased consumer choice; b) the unique advantages and disadvantages of the applicant's service offering; and c) the impact on the universal service fund, among other considerations. Petitioner should provide sufficient evidence to demonstrate that these factors have been met.

15. Petitioner must agree to notify the IURC in the future if any factors change affecting eligibility for ETC designation. (1996 ETC Order in Cause No. 41052)

16. Petitioner shall agree to pay all applicable fees, including the Indiana Telecommunications Relay Access Corporation ("INTRAC") fee, pursuant to I.C. § 8-1-2.8; the Indiana Universal Service Fund ("IUSF") surcharges established in Cause No. 42144; the statewide 911 fee required under I.C. § 36-8-16.6; and the Public Utility Fee pursuant to I.C.§ 8-1-6. It is incumbent upon prepaid wireless providers to

inform the retailers that sell their products that it is their responsibility to collect and submit the 911 surcharge pursuant to Indiana law.

17. The Petition must be verified pursuant to 170 IAC 1-1.1-8.

18. Quarterly reports required in ETC Designation Orders are public records. Therefore, all requests for confidentiality regarding data included in said reports must clearly state not only the legal and factual basis upon which confidentiality should be granted in accordance with I.C. § 5-14-3-4, but also provide supporting evidence to substantiate the request. With regard to confidentiality, please review *In re Request for Confidential Treatment of Nexus Communications, Inc. Filing of FCC Form 555,* Order, WC Docket No. 11-42 (rel. April 29, 2013).