

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER S-35904

CABLESOUTH MEDIA III, LLC
EX PARTE

Docket No. S-35904, In re: Petition for Designation as an Eligible Telecommunications Carrier.

(Decided at the May 19, 2021 Business and Executive Session.)

Overview

On March 3, 2021, CableSouth Media III, LLC (“CableSouth” or “Company”) filed a petition (“Petition”) with the Louisiana Public Service Commission (“LPSC” or “Commission”) seeking designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”) (47 U.S.C. § 214(e)(2)); 47 C.F.R. Part 54; and the Commission’s General Order No. R-27841 dated May 20, 2004 (“ETC General Order”). CableSouth sought designation in the eligible census blocks for which it was awarded funding from the Federal Communications Commission’s (“FCC”) Rural Digital Opportunity Fund (“RDOF”) Phase I Auction. Notice of the Petition was published in the Commission’s Official Bulletin No. 1240 dated March 5, 2021 for an intervention period of fifteen days. No intervention or protest was received during or subsequent to the intervention period.

CableSouth is a provider of rural cable television and internet services in several states, including Louisiana, and a wholly-owned subsidiary of Hunt Land Holdings, LLC (“Hunt Land”) - a Louisiana limited liability company. CableSouth possesses a cable and video license issued by the Louisiana Secretary of State and holds a certificate of authority from the Commission to operate as a competitive provider of local exchange and long distance services in Louisiana pursuant to Certificate No. TSP00733-A.¹ While domiciled in the State of Tennessee, CableSouth has provided cable television services in Louisiana for approximately 15 years. CableSouth’s Louisiana service area includes covers communities across the State, within the Parishes of Allen, Avoyelles, Beauregard, Bienville, Catahoula, Concordia, De Soto, East Feliciana, West Feliciana, Evangeline, Grant, Jefferson Davis, LaSalle, Natchitoches, Rapides, Red River, Sabine, St. Helena, St. Landry, Tensas, Vernon and Winn.

CableSouth’s Petition for ETC designation resulted from the RDOF Phase I Auction, which requires winning bidders of the auction to obtain designation as an ETC from the appropriate regulatory agency for the service areas encompassing the census blocks for which the Company was awarded Phase I support no later than June 7, 2021.

¹ Hunt Land Holdings, LLC transferred the certificate to CableSouth in Docket No. S-35935.

Jurisdiction and Applicable Law

The Commission exercises jurisdiction over public utilities and common carriers in Louisiana pursuant to the Louisiana Constitution, Article IV, Section 21(B), which states the following:

The commission shall regulate all common carriers and public utilities and have other such regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

As set forth in Section 214(e)(2) of the Act, State commissions are vested with the authority to designate as ETCs, those common carriers that meet the service requirements found in 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.101, hereby entitling them to Universal Service Fund (“USF”) support in accordance with 47 U.S.C. § 254. To be eligible for ETC designation, 47 U.S.C. § 214(e)(1) requires that a common carrier:

[O]ffer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, 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

[A]dvertise the availability of such services and the charges therefor using media of general distribution.

Finally, a State commission must find the designation of an ETC to be consistent with the public interest, convenience, and necessity - especially in the case of an additional ETC seeking designation in an area served by a rural telephone company. FCC regulations regarding ETC obligations further supplement these statutory requirements. In particular, 47 C.F.R. § 54.101 requires the following:

1. An ETC must offer voice telephony service as set forth in 47 C.F.R. § 54.101(a)(1).
2. An ETC subject to a high-cost public interest obligation to offer broadband Internet access services must offer broadband services within the areas where it receives high-cost support consistent with obligations particular to certain support programs, including the universal service support program for high-cost areas.
3. An ETC must comply with 47 C.F.R. §§ 54.400-423 relating to USF support for low-income consumers through the Lifeline program.

Thus, under applicable law and regulation, the Commission must conduct a two-fold analysis prior to approving or denying a request for ETC designation. First, the Commission must determine whether the Company complies with 47 U.S.C. § 214(e)(1)-(2) and applicable FCC regulations, i.e., generally whether the Company offers supported universal services consistent with its regulatory obligations and whether the Company advertises the availability of and charges for those services through media of general distribution. Second, the Commission must determine

whether granting the Company's application would be in the public interest. In addition, the Commission may also consider factors reviewed by the FCC in its consideration of requests for ETC designation under 47 U.S.C. § 215(e)(6); nevertheless, as these factors are merely persuasive guidelines and not binding upon the Commission's evaluation of petitions for ETC designation, Staff refrained from discussion of the FCC's non-binding criteria.

Consistent with the foregoing federal and state authority, and additional federal pronouncements, the Commission issued the ETC General Order which established a comprehensive set of public interest criteria to be applied on a case-specific basis to all requests for ETC designation in areas served by rural telephone carriers. Some of the public interest factors set forth in the ETC General Order do not apply in this instance, since the Company does not seek to provide wireless telephony services, i.e., commercial mobile radio services and private mobile radio services). Further, since some of the underlying FCC and Commission regulations have been repealed or waived or were not subsequently adopted, other public interest factors set forth in the ETC General Order also do not apply to this case. Accordingly, Staff applied the remaining applicable public interest criteria of the ETC General Order in its review of the specific facts presented by the Company's application.

Staff Recommendation

After a thorough review of CableSouth's Petition, Staff filed its Staff Report and Recommendation on April 19, 2021. Therein, Staff detailed its finding that the Company meets all of the requirements to be designated an ETC. Staff further found that such a designation would serve the public interest, should the request for ETC designation be granted, as the provision of such support from the FCC would enable CableSouth to provide voice and broadband services to underserved and unserved rural areas in Louisiana. Nevertheless, Staff recommended that any ETC designation granted by the Commission be for the limited purpose of obtaining high-cost RDOF Phase I support and low-income Lifeline support incidental thereto, subject to a number of conditions to ensure compliance with all applicable Commission regulations. Staff also reviewed the Company's responses addressing each of the applicable public interest factors set out in the ETC General Order, which are summarized below:

- CableSouth submits that ETC designation would allow the Company to introduce broadband infrastructure and VoIP services in locations where no such infrastructure and services currently exist, providing a starting point for possible competition in broadband services in these areas. Designation would also advance the State's policy goal of bridging the digital divide and increasing public and private investment in Louisiana.
- With regard to the potential impact of multiple ETC designations, CableSouth asserts that winning bidders in the RDOF Phase I Auction are awarded fixed amounts of support in geographically limited, non-overlapping census blocks. Thus, the potential for waste of high-cost support is low. CableSouth submits that this conclusion holds true for Lifeline support as those subsidies are portable and move with the customer to its carrier of choice.

- CableSouth contends that the primary advantage of its service offering is its access to broadband service with download speeds of at least 25Mbps in areas where service is not available. The Company's fiber optic networks will provide customers with access to download speeds of up to 10,000 Mbps.
- CableSouth commits to provide the Commission with updates on its plans for utilization of federal funding, including, as applicable, updates on the progress of deployment. CableSouth further commits to comply with all federal and state requirements for 911 and enhanced 911 services to its customers. CableSouth cites its parent company's history of compliance with as a provider of CLEC service in Louisiana as evidence of its intent.
- The Company stated that requests for service will be accepted online and entered into a database which will be used to market to customers as the CableSouth's network grows into new areas.

Commission Consideration

This matter was considered at the Commission's May 19, 2021 Business and Executive Session. On motion of Commissioner Boissiere, seconded by Commissioner Francis, the Commission voted to accept the Staff Report and Recommendation filed on April 19, 2021, recommending designation of CableSouth as an ETC within the eligible census blocks related to CableSouth's winning bid in the RDOF Phase I auction, and low-income Lifeline support incidental thereto, subject to conditions.

IT IS THEREFORE ORDERED:

That CableSouth be designated as an ETC for the purpose of obtaining high-cost support related to CableSouth's winning bid in the RDOF Phase I auction, and low-income Lifeline support incidental thereto, subject to the following conditions:

1. To the extent not already provided, CableSouth will provide Staff with a copy of the media advertisement(s) for its federal supported services intended for general distribution in Louisiana for Staff approval within thirty days of Commission designation as an ETC. Staff will approve or provide recommended changes to the proposed media advertisement(s) within thirty days of receipt of the same.
2. No less than semi-annually, the Company shall file into the record of this proceeding, periodic updates on the status of CableSouth's plan of investment and expenditure of RDOF Phase I funds for review by Staff. CableSouth shall file its first such update within thirty days of the FCC's approval of the Company's long-form application and authorizations for the Company to begin receiving RDOF Phase I support, but in no event later than ninety days from the date of issuance of an order in this proceeding. The Company shall file subsequent updates every 180 days after the immediately previous filing, beginning 180 days after the date of the initial filing. The Company shall make such filings in this manner for the entire support term. At the expiration of this support term, the reporting requirement of this condition shall cease to be in effect. This condition shall have no precedential effect. The Commission may, at any time, amend this order and require the Company to file such updates on a more frequent basis including on a quarterly basis.
3. CableSouth will comply with the requirements set forth in 47 C.F.R. § 54.402(d), which requires that certain information be filed with the Administrator, i.e., Universal Service Administrative Company, upon a state commission designating as ETC, within sixty days of the issuance of an order from the Commission designating the Company as an ETC. The Company shall file proof of such compliance into the record of this docket within thirty days of performing such compliance.

4. CableSouth shall file a new petition with the Commission if the Company seeks to amend its ETC designation to allow it to provide federally supported services through resale only if to provide wireless services or to provide any federally supported services outside the Designated Service Areas.
5. CableSouth's ETC designation is conditioned upon full and timely compliance with all applicable rules and regulations of state and federal agencies, including, but not limited to, the rules and regulations of the Commission and the FCC. The Commission reserves the right to suspend or revoke the Company's ETC designation in the event of non-compliance and or untimely compliance with the same.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 25, 2021



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

BRANDON M. FREY
SECRETARY

/S/ CRAIG GREENE

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