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May 11, 2009

Jacklyn Brilling, Commission Secretary
New York Public Service Commission
Agency Building #3
Three Empire State Plaza
Albany, NY 12223-1350

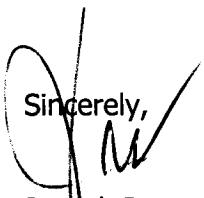
Re: Eligible Telecommunications Carrier (ETC) Petition of NOC, Inc.

Dear Ms. Brilling:

Enclosed please find an original and three (3) copies of the original ETC Petition for NOC, Inc.

Please acknowledge receipt of this filing by date-stamping the extra copy of this letter and return to us at the address below. Should there be anything that needs revision please contact us so we may amend filing.

Questions concerning this Application may be addressed to me.

Sincerely,

Joseph Isaacs
VP Regulatory
NOC, Inc.

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW YORK**

In the Matter of the Application of
NOC, Inc.
For Designation as an
Eligible Communications Carrier

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Docket No: _____

**APPLICATION OF NOC, INC. FOR DESIGNATION
AS AN ELIGIBLE COMMUNICATIONS CARRIER
IN THE STATE OF NEW YORK**

NOC, INC. (“Applicant” or “NOC”), 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 it’s rules and regulations of the New York Public Service Commission (the “PSC”), hereby applies to the PSC for designation as an Eligible Communications Carrier throughout the Verizon Corporation (“Verizon”) service territory (the “Designated Service Area”) for the purpose of receiving Federal Universal service support.³ The Applicant is only seeking low income support, and is not requesting high income support. As demonstrated below, NOC satisfies all of the statutory and regulatory requirements for designation as an ETC in the Designated Service Areas. Furthermore, designation of NOC as an Eligible Communications Carrier in the Designated Service Area will serve the public interest. Accordingly, NOC, respectfully requests that the PSC grant this Application.

¹ 47 U.S.C. Section 214(e)(2)

² 47 U.S.C. Section 54.101-54.207

³ Applicant seeks ETC status in all Verizon wire centers

All correspondence, communications, pleadings, notices, orders and decisions regarding this Application should be directed to:

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I. Background

1. NOC is a corporation⁴ organized under the laws of the State of New York. Copies of the Applicants Articles of Incorporation are attached hereto as Exhibit A. The Applicant is authorized to provide competitive local exchange services throughout the State of New York (Docket No. 09-00589). The principle office of the Applicant is 425 State Route 37, Suite 100, Hogansburg, NY 13655. The telephone number of the Applicant is (518) 358-4229. The Applicant will provide local exchange and exchange access services in the Designated Service Area using a combination resale and unbundled network elements, or unbundled network elements (“UNE’s”) obtained through interconnection agreements that allow end-to-end switching and delivery of calls.

2. 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)(2)] as an eligible telecommunications carrier for a service area designated by the state commission.”⁵ Upon designation as an ETC , the carrier shall be eligible to receive universal support in accordance with Section 254 of the Act.⁶

⁴ NOC, Inc. was organized in the State of New York on February 26, 2009

⁵ 47 U.S.C. Section 214(e)(2); see C.F.R. Section 54.201(b) (FCC rules citing the Act’s requirements)

3. The requirements for designation as an ETC as set forth in Sections 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 ETC); and
- (b) Advertise the availability of such services and the charges therefore using the media of general distribution.⁷

II. NOC Satisfies the Requirements for Designation as an ETC to Serve the Designated Service Area

4. NOC is a common carrier as that term is defined in the Act.⁸ The Applicant provides competitive local telecommunications services in the Designated Service Area pursuant to Docket No. 09-00589 referenced above.

5. NOC will offer all of the supported services enumerated under Section 254(c) using facilities obtained by UNEs, or the equivalents thereof. According to FCC Rules, facilities obtained as UNEs satisfy the requirements that the ETC provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.⁹

6. The services that are supported by Federal universal support mechanisms under Section 254© are enumerated in the Rules of the Federal Communications Commission ("FCC") at 47 C.F.R. Section 54.101(a)(1)-(9). These services are:

⁶ 47 U.S.C. Section 214(e)(1).

⁷ Id.

⁸ See 47 U.S.C. Section 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.....")

⁹ Section 54.201(f) of the FCC 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. Chapter 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 designed for support pursuant to subpart B of this part." 47 C.F.R. Section 54.201(e). NOC's use of UNEs, including Section 251 loops, or equivalent thereof, comingled with Section 271 elements provided pursuant to an agreement filed with the Commission pursuant to Section 252, meets the definition of "facilities".

- (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 purpose of this part, bandwidth for voice grade access should be, at a minimum 300 to 3,000 Hertz. Applicant meets the requirement by providing voice-grade access to the public switched telephone network. All customers of Applicant are able to make and receive calls on the public switched telephone network within the specified bandwidth;
- (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. Applicant includes specified quantities of usage in its rate plans and thereby complies with this requirement. It is important to note, that currently, there is no specific rule that requires and ETC to include any particular amount of local usage;
- (c) Dual tone multi-frequency signaling or its equivalent. “Dual tone multi-frequency” (DTMF) is a method of signaling that facilitates the transportation of signaling throughout the network, shortening call setup time. Applicant provides DTMF signaling to its customers, which is the equivalent of that offered by the incumbent LEC to its customers;
- (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 amongst users to provide service, a dedicated message path for the length of a user’s particular transmission. Applicant meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls;

- (e) Access to emergency services. “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 Access Point (PSAP) operated by a local government. “Enhanced 911” is defined as 911 service that included 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 the 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. Through its agreements with Verizon, Applicant currently provides its subscribers access to 911 emergency services and also provides Enhanced 911 services including Phase I and Phase II E911 services where requested by local public safety authorities ready to receive the information and where the local exchange carrier supports such services;
- (f) Access of operator services. “Access to operator services” is defined as access to any automatic or live assistance to a customer to arrange for billing or completion, or both, of a telephone call. Operator services are offered by Applicant;
- (g) Access to interexchange service. “Access to interexchange service” is defined as the use of a loop, as well as the portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of the wireless carrier, necessary to access and interexchange carriers network. Applicant provides long distance access to its customers;
- (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. Applicant provides access to directory assistance to its customers; and

- (i) Toll limitation for qualifying low-income consumers. Toll limitation for qualifying low-income consumers is linked to participation in the Lifeline program, which Applicant will participate in and offer upon designation as an ETC. Applicant will use the appropriate toll limitation technology to provide this required service at no charge to Lifeline customers.

7. Upon certification as an ETC, NOC will participate in, and offer Lifeline and Link-Up programs 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 the FCC Rules.¹⁰ The FCC has concluded that even pure resellers may qualify as an ETC and properly use universal service support for the purposes for which it was intended by offering reduced price Lifeline services.¹¹

8. NOC will advertise the availability of the above-referenced services and the charges for those services in the Designated Service Area using media of general distribution, as required by the FCC Rules.¹²

III. Area for which ETC Certification is Requested

9. NOC will serve the exchanges where it leases UNEs or resells the services of the non-rural telephone companies in the Designated Service Area. NOC does not seek certification as an ETC in any area served by rural telephone companies.

IV. Granting NOC's Application Will Serve the Public Interest

10. Congress requires that the PSC grant competitive ETC Application in non-rural area.¹³

¹⁰ See C.F.R. Section 54.401-54.417; 54.405(b) & 54.411(d).

¹¹ See *Federal-State Joint Board on Universal Service, Petition of Tracfone Wireless, Inc.*, 20 FCC Rcd 15095 (2005) (finding that because Lifeline is customer specific and is directly reflected in the price that the eligible customer pays, it is impossible for any carrier to receive a double recovery of the support).

¹² See 47 C.F.R. Section 54.201(d)(2).

¹³ See 47 U.S.C. 214(e)(2).

No specific public interest test is mentioned, as is the case for areas served by rural telephone companies¹⁴. Thus, the Act provides that the PSC “shall” designate NOC 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 NOC as an ETC will serve the public interest.

11. NOC will announce and advertise telecommunications services as an ETC where it provides service in the Designated Service Area in New York 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, low-income New York residents will be made aware of the opportunities by subscribing to NOC’s service. NOC advertises its services through several different media of general distribution (but not limited to) marketing at targeted retail locations, including service stations, as well as advertisements via television, radio, newspapers and trade magazines.

Since NOC’s service is of particular interest to credit-challenged customers – many of whom are low income – who generally cannot obtain service from the incumbent carrier, the granting of ETC status is clearly in the public interest; access to Lifeline and Link-UP programs can be critically important 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 Designated Service Area. NOC will provide universal service as an ETC in all of its Designated Service Area.

12. NOC is willing to accept carrier of last resort obligations throughout the universal service areas in which NOC is designated as an ETC by the PSC.

13. NOC 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 unbundled network elements or equivalent facilities).

14. NOC will provide equal access to interexchange services.

¹⁴ See *Id.*

15. 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 the Designated Service Area. The only circumstances warranting deviation from this requirement is where the Applicant's requested ETC serving territory would qualify it to receive no "high cost" support, but only "low income" USF support. Because NOC seeks ETC designation solely for the purpose of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a five-year Network Improvement Plan is NOT required at this time. Since Lifeline support is designed to reduce the monthly cost of telecommunications services for eligible customers, and is distributed on a per-customer basis and is directly reflected in the price that the eligible customer pays, it is assumed that all support received by the carrier is used to provide Lifeline services to consumers, thus promoting Lifeline and the availability of telephone services to low-income users, which is clearly in the public interest.

16. Applicant offers a local usage plan comparable to the one offered by the incumbent LEC in the service area for which it seeks designation. Applicant offers a local service plan with unlimited calling within the customer's local calling area for a flat monthly fee with the same calling scope as Verizon.

17. Under FCC guidelines, an ETC Applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. 47 C.F.R. Section 54.202(a)(3); *see In the Matter of Federal-State Joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, 20 FCC Rcd 6371, paragraph 28 (2005) (FCC ETC Order). Applicant will satisfy all such standards. As part of the 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 ETC Order. Applicant in general commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards.

18. Under FCC guidelines, an ETC Applicant must demonstrate its ability to remain functional in emergency situations. 47 C.F.R. Section 54.202(a)(2); see FCC ETC Order at paragraph 25. Applicant provides to its customers the same ability to remain functional in emergency situations as currently provided by Verizon to its own customers, including access to a reasonable amount of back-up power, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

19. 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 Paragraph 22; 47 CFR Section 54.202(a)(1)(i). Applicant commits to provide service throughout the proposed ETC-designated service area to all customers making request for service.

20. Applicant's 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.

21. Applicant has not been designated an ETC by any other State Utility Commission. No state has denied any ETC petition filed by the Applicant, nor have any such petitions been withdrawn. Applicant currently does not have any other petitions pending for ETC status in any other jurisdiction.

22. By this application, Applicant hereby asserts its willingness and ability to comply with all of the rules and regulations that the PSC may lawfully impose on the Applicant's provision of service contemplated by this Application.

23. Upon PSC request, Applicant is prepared to answer questions or present additional testimony or other evidence about its services within the State.

V. Relief Requested

For the foregoing reasons, NOC respectfully requests that the PSC grant its application and designate the Applicant an ETC in the Designated Service Area.

Respectfully submitted this 11th day of May, 2009

By: 

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