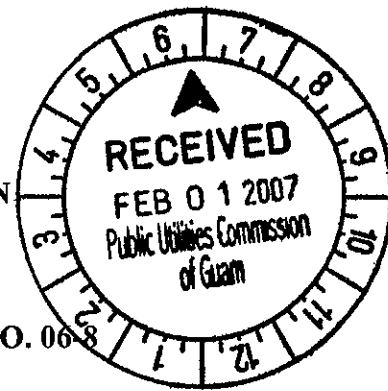


BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



APPLICATION OF PULSE MOBILE, LLC }
FOR DESIGNATION AS AN }
ELIGIBLE TELECOMMUNICATIONS CARRIER]

DOCKET NO. 06-8

ORDER APPROVING DESIGNATION

Procedural History

On or about January 31, 2005, Pulse Mobile, LLC (“Pulse Mobile”) (formerly GTA Wireless, LLC) requested a letter from the Commission that Pulse Mobile is not subject to the jurisdiction of the Commission, or that the Commission declines jurisdiction, so that Pulse Mobile could petition the Federal Communications Commission (“FCC”) for designation as an eligible telecommunications carrier (“ETC”) under Section 214(e)(6) of the federal Communications Act of 1934, as amended (the “Federal Act”). A telecommunications carrier that has been designated as an ETC is eligible to receive federal high-cost universal service support under Section 254 of the Federal Act.

The Commission issued a letter on February 25, 2005, stating that the Commission intended to refrain from exercising jurisdiction over Pulse Mobile for the limited purpose of acting upon Pulse Mobile’s then proposed petition for designation as an ETC. Pulse Mobile filed a petition for ETC designation with the FCC on May 19, 2005.

After Pulse Mobile’s petition was not timely acted upon by the FCC, Pulse Mobile filed with the Commission on July 26, 2006 a petition for designation as an ETC throughout the Territory of Guam. On September 28, 2006, the Commission issued an order asserting jurisdiction over Pulse Mobile’s petition. On October 2, 2006, Pulse Mobile withdrew its petition to the FCC for ETC designation.

On November 17, 2006, the Commission’s consultant, Georgetown Consulting Group, filed comments indicating that Pulse Mobile’s petition for ETC designation should be granted subject to the following conditions:

- (1) Pulse Mobile must comply with any local usage requirements prescribed by the FCC;
- (2) Pulse Mobile must comply with any FCC requirements concerning E911 service when implemented in the Territory of Guam;
- (3) Pulse Mobile must certify to the Commission on October 1 of each year, beginning October 1, 2007, that Pulse Mobile (a) offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale and (b) advertises the availability of supported services and the charges therefor using medial of general distribution as described in its petition;

(4) Pulse Mobile must notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements;

(5) Pulse Mobile must file a detailed build-out plan satisfying the FCC's requirements no later than October 1, 2007;

(6) Pulse Mobile must file with the Commission a copy of each annual certification made by Pulse Mobile under Section 54.314(b) of the FCC's rules;

(7) Pulse Mobile must submit to the Commission on October 1 of each year, beginning October 1, 2007 the following records and documentation: (a) Pulse Mobile's progress towards meeting its build-out plans; (b) information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities; (c) the number of requests for service from potential customers within Pulse Mobile's service area that were unfulfilled for the past year; (d) the number of complaints per 1,000 handsets; (e) Pulse Mobile's compliance with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service (the "CTIA Consumer Code"); (f) Pulse Mobile's certification that it is able to function in emergency situations; (g) Pulse Mobile's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (h) Pulse Mobile's certification that it acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.

(8) Pulse Mobile must promptly submit to the Commission any additional information or reports that that Commission may reasonably request from time to time.

On November 22, 2006 and November 27, 2006, the Commission published notice of Pulse Mobile's petition and requested comments from interested persons. No comments were received by the Commission from any other interested party.

Discussion and Findings of Fact

1. Pursuant to 47 U.S.C. § 214(e)(2), the Commission is generally responsible for designating a telecommunications carrier as an ETC within the Territory of Guam in accordance with the requirements of the Federal Act.

2. The Federal Act provides that the Commission may designate a telecommunications carrier as an ETC if the following requirements are satisfied:

(a) the carrier offers services that are supported by the federal universal service support mechanism, either using its own facilities or a combination of its own facilities and resale of another carrier's services;

(b) the carrier advertises the availability of such services and the charges therefor using media of general distribution; and

(c) the designation of such carrier as an ETC is in the public interest (if such carrier is seeking designation for an area served by a rural telephone company that has already been designated as an ETC).¹

3. Pulse Mobile is authorized to provide commercial mobile radio service in the entire Territory of Guam. Pulse Mobile also certifies in its petition that: "Pulse Mobile offers, or will offer, all of the services designated by the FCC for support pursuant to Section 254(c) of the [Federal] Act to any requesting customer within its designated service area; Pulse Mobile offers, or will offer, the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services; and Pulse Mobile advertises, or will advertise, the availability of supported services and the charges therefor using media of general distribution as described in the Advertising Plan attached to the ... Petition."

4. The FCC has indicated that a commitment in the petition to provide all of the supported services and to advertise using media of general application upon designation as an ETC is sufficient to satisfy the FCC's requirements. However, the Commission finds that Pulse Mobile must certify to the Commission no later than October 1, 2007 that Pulse Mobile (a) offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale and (b) advertises the availability of supported services and the charges therefor using media of general distribution as described in its petition.

5. With respect to supported local usage, Pulse Mobile indicates that it "will satisfy the local usage criterion for ETC designation based upon its offering of unlimited local usage calling plans." Consistent with the FCC's rules, the Commission finds that any designation of Pulse Mobile as an ETC be conditioned on Pulse Mobile's compliance with any local usage requirements prescribed by the FCC.

6. With respect to supported access to emergency service, Pulse Mobile indicates that it will offer emergency 911 service but not E911 service. However, to the extent a governmental authority in the Territory of Guam implements E911 systems, Pulse Mobile will be required to provide E911 service. Therefore, the Commission finds that any designation of Pulse Mobile as an ETC be conditioned on Pulse Mobile's compliance with any FCC requirements concerning E911 service when implemented in the Territory of Guam.

¹ 47 U.S.C. § 214(e). The FCC has defined the services that are to be supported by the federal universal service support mechanisms to include: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multifrequency (DTMF) signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services, including 911 and enhanced 911; (6) access to operator services; (7) access to interexchange services; (8) access to directory assistance; and (9) toll limitation for qualifying low-income customers. 47 C.F.R. § 54.101(a).

7. On March 17, 2005, the FCC adopted additional requirements for ETC designation proceedings in which the FCC acts pursuant to 47 U.S.C. § 214(e)(6).² All carriers seeking ETC designation from the FCC must satisfy these requirements. By order dated September 28, 2006 in this docket, the Commission determined that the additional requirements adopted by the FCC would be used by the Commission in evaluating Pulse Mobile's petition.

8. Pursuant to the additional requirements adopted by the FCC in the *ETC Designation Order*, any applicant for ETC designation must:

- (1) (i) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:
 - (A) Provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and
 - (B) Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (1) Modifying or replacing the requesting customer's equipment;
 - (2) Deploying a roof-mounted antenna or other equipment;
 - (3) Adjusting the nearest cell tower;
 - (4) Adjusting network or customer facilities;
 - (5) Reselling services from another carrier's facilities to provide service; or
 - (6) Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.
- (ii) 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

² In the *Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (released March 17, 2005) (the "*ETC Designation Order*").

service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

- (2) 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.
- (3) 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.
- (4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which it seeks designation.
- (5) Certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

9. Except as provided below, the Commission finds that Pulse Mobile has satisfied all of the additional mandatory requirements set forth in the *ETC Designation Order*. First, Pulse Mobile has certified that it will provide service throughout the Territory of Guam to all customers making a reasonable request for service in accordance with the FCC's requirements. In this regard, Pulse Mobile has committed that it will notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements. Second, Pulse Mobile has certified that it has a reasonable amount of back-up power, the ability to reroute traffic and the capability to manage traffic spikes to remain functional in emergency situations. Third, Pulse Mobile has committed to comply with the CTIA Consumer Code. Fourth, Pulse Mobile has indicated that it will offer a rate plan to its universal service customers that includes unlimited local usage comparable to the rate plan offered by GTA Telecom, LLC. Fifth, Pulse Mobile has certified that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

10. Pulse Mobile has also submitted a five-year plan that describes proposed improvements or upgrades to its network in a summary fashion. The Commission finds that such plan does not currently include sufficient detail to satisfy the FCC's requirements. For example, the plan does not describe improvements on a wire center-by-wire center or cell tower-by-cell tower basis and does not provide the estimated amount of investment for each project that is funded by high-cost support. However, because the FCC has recognized that such plans are always subject to change and given FCC precedent for the filing of such plans after ETC designation, the Commission finds that such a detailed build-out plan may be filed by Pulse Mobile following ETC designation as part of its first annual filing with the Commission discussed below in this order. Therefore, the Commission directs Pulse Mobile to file a current, detailed build-out plan satisfying the FCC's requirements no later than October 1, 2007.

11. For the public interest determination, the *ETC Designation Order* provides that the Commission should consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the ETC applicant's service offering. In instances where an ETC applicant seeks designation below the study area level of a rural telephone company, the Commission must also conduct a creamskimming analysis that compares the population density of each wire center in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation.

12. The Commission believes that Pulse Mobile's universal service offering may provide a variety of benefits to customers in Guam, including consumer choice and advantageous service offerings. For instance, universal service support will help Pulse Mobile construct facilities to improve quality of service and upgrade its current technology. In addition, Pulse Mobile has indicated that it will use support to offer a basic universal service package to subscribers who are eligible for Lifeline support and Pulse Mobile has made detailed commitments to provide high quality service throughout the Territory of Guam. The mobility of Pulse Mobile's wireless service will provide further benefits to consumers, such as access to emergency services in geographically isolated areas. Finally, given the size of the federal universal service fund, the commission believes it is unlikely that Pulse Mobile's ETC designation would have an adverse impact on the federal universal service fund.

13. Because Pulse Mobile seeks ETC designation for the entire Territory of Guam and not below the study area level of the incumbent local exchange carrier, the creamskimming analysis required by the *ETC Designation Order* is not required.

14. Pulse Mobile is obligated under Section 254(e) of the Federal Act to use high cost support "only for the provision, maintenance, and upgrading of facilities and services for which support is intended" and is required under Section 54.314 of the FCC's rules to certify annually that it is in compliance with this requirement. Pulse Mobile has certified to the Commission that, "consistent with Section 54.314(b) of the FCC's rules, all federal high-cost support will be used solely for the provision, maintenance and upgrading of facilities and services for which support is intended pursuant to Section 254(e) of the [Federal] Act." The Commission finds that Pulse Mobile should be required to file with the Commission a copy of each annual certification made by Pulse Mobile under Section 54.314(b) of the FCC's rules.

15. In addition, Pulse Mobile has committed to submit to the Commission on an annual basis the following records and documentation, in addition to any other information or reports that that Commission may reasonably request from time to time:

- Pulse Mobile's progress towards meeting its build-out plans;
- Information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities;
- The number of requests for service from potential customers within Pulse Mobile's service area that were unfulfilled for the past year;
- The number of complaints per 1,000 handsets;
- Pulse Mobile's compliance with the CTIA Consumer Code;
- Pulse Mobile's ability to function in emergency situations;
- Pulse Mobile's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and
- Pulse Mobile's certification that it acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.

16. The Commission finds that Pulse Mobile must submit these records and documentation to the Commission on October 1 of each year, beginning October 1, 2007. Consistent with FCC requirements: (1) the progress report should include maps detailing progress towards meeting Pulse Mobile's five-year service quality improvement plan, explanations of how much universal service support was received and how the support was used to improve service quality in each wire center or cell tower for which designation was obtained, and an explanation of why any network improvement targets have not been met; and (2) the information on Pulse Mobile's outages should include the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage and steps taken to prevent a similar outage situation in the future. The Commission finds that Pulse Mobile must provide additional information and reports to the Commission when request therefor is made by the Commission or its staff from time to time.

Order

Based upon the foregoing, the Commission orders that:

1. Pulse Mobile is hereby designated as an ETC throughout the Territory of Guam subject to the following conditions:

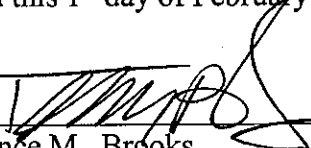
- (a) Pulse Mobile must comply with any local usage requirements prescribed by the FCC;

- (b) Pulse Mobile must comply with any FCC requirements concerning E911 service when implemented in the Territory of Guam;
- (c) Pulse Mobile must certify to the Commission on October 1 of each year, beginning October 1, 2007, that Pulse Mobile (i) offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale and (ii) advertises the availability of supported services and the charges therefor using medial of general distribution as described in its petition;
- (d) Pulse Mobile must notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements;
- (e) Pulse Mobile must file a detailed build-out plan satisfying the FCC's requirements no later than October 1, 2007;
- (f) Pulse Mobile must file with the Commission a copy of each annual certification made by Pulse Mobile under Section 54.314(b) of the FCC's rules;
- (g) Pulse Mobile must submit to the Commission on October 1 of each year, beginning October 1, 2007 the following records and documentation: (i) Pulse Mobile's progress towards meeting its build-out plans; (ii) information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities; (iii) the number of requests for service from potential customers within Pulse Mobile's service area that were unfulfilled for the past year; (iv) the number of complaints per 1,000 handsets; (v) Pulse Mobile's compliance with the CTIA Consumer Code; (vi) Pulse Mobile's certification that it is able to function in emergency situations; (vii) Pulse Mobile's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (viii) Pulse Mobile's certification that it acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.
- (h) Pulse Mobile must promptly submit to the Commission any additional information or reports that that Commission may reasonably request from time to time.

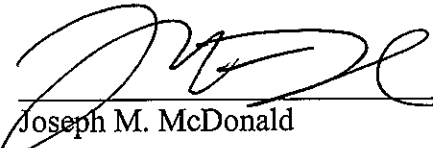
2. The Commission reserves jurisdiction and authority to (a) institute an inquiry on its own motion to examine Pulse Mobile's records and documentation to ensure that the high-cost support it receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the Territory of Guam, (b) revoke Pulse Mobile's ETC designation if it fails to fulfill any requirements of Section 214 of the Federal Act, the FCC's rules and

regulations or the Commission's order after Pulse Mobile begins receiving universal service support and (c) assess penalties for violations of the Commission's rules and orders.

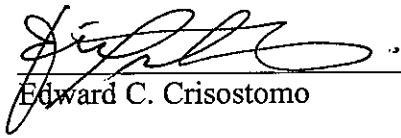
Dated this 1st day of February 2007.



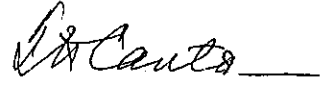
Terrence M. Brooks



Joseph M. McDonald



Edward C. Crisostomo



Filomena M. Cantoria

Rowena E. Perez

Jeffrey C. Johnson