

NEIL PRICE
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
BAR NO. 6864

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Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5918

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
CRICKET COMMUNICATIONS, INC. TO)	CASE NO. CRI-T-11-01
AMEND ITS DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER IN)	
IDAHO.)	COMMENTS OF THE
)	COMMISSION STAFF
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Neil Price, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 32656 on October 3, 2012, in Case No. CRI-T-11-01, submits the following comments.

BACKGROUND

On July 19, 2012, Cricket Communications, Inc. filed an Application, pursuant to Section 214(e)(2) of the Telecommunications Act of 1934 (the "Act"), to amend its designation as an eligible telecommunications carrier ("ETC") in the State of Idaho. Cricket was previously granted ETC designation in Order No. 32501 issued March 27, 2012. The Company states that it continues to expand its coverage area and facilities, and thus, asks the Commission to expand its ETC designation area to allow Cricket to offer Lifeline services to low-income customers in the expanded areas generally located in the rural areas of southwestern Idaho. Amended Application

at 1. The ten new wire centers that Cricket seeks ETC designation are: Homedale, Marsing, Sweet, Wilder, Fruitland, Melba, New Plymouth, Payette, Weiser, and Boise River. Cricket states that each wire center will be served in its entirety. *Id.* Exh. A.

STAFF ANALYSIS

In the Application, Cricket states that it is a facilities-based carrier that provides digital wireless services on a common carrier basis, primarily using its own state-of-the-art facilities. Cricket maintains that the Company and its affiliates serve approximately 6.2 million customers in 34 states and the District of Columbia and offers its Lifeline customers the benefits of unlimited calling at flat rates, without requiring fixed-term contracts or credit checks. *Id.* at 2. Cricket attached Exhibit A to its Application identifying the areas in Idaho where the Company is already designated as an ETC and the proposed additional wire centers for its Idaho ETC area.

Cricket states that the proposed amended designation would continue to satisfy all statutory and regulatory requirements for ETC designation as set forth in the Act,¹ the Federal Communications Commission's (FCC) Rules,² Idaho Statutes,³ and the Commission's Rules.⁴ *Id.* at 2-3. In particular, Cricket states that it will continue to comply with the applicable annual certification requirements adopted in the Commission's ETC Requirements Order (Order No. 29841) will continue to collect and remit applicable Idaho Telephone Service Assistance Program (ITSAP) and Idaho Emergency Communications Act (E-911) fees. *Id.* at 3-4.

ETC designation generally requires that, in the case of an area served by a rural telephone company, a competitive ETC's service area must be defined as the rural telephone company's "study area" unless the study area has been redefined by the FCC and the Commission. *Id.* at 4. As a result of the FCC's forbearance order and subsequent approval of the Company's compliance plan, Cricket is eligible for Lifeline-only ETC designation in service areas that do not conform to that of an underlying rural telephone company study area. *Id.*

The Company asserts that amending its designation would not only be consistent with, but would advance public interest. *Id.* Cricket believes the supporting arguments that should be considered are "the benefits to consumer choice, the unique advantages and disadvantages of the

¹ 47 U.S.C. § 214(e)(1)-(2).

² 47 C.F.R. § 54.201.

³ *Idaho Code* § 62-615(1)-(3).

⁴ *IPUC ETC Requirements Order* No. 29841.

applicant's service offering, and where applicable, consideration of cream skimming. Because Cricket is not applying for high-cost universal service, the Company asserts no cream skimming analysis is warranted.⁵

The Company proposes a basic plan for \$35/month that includes unlimited nationwide local calling, unlimited nationwide US long distance (including calls to Puerto Rico and Canada), Caller ID, and voicemail. In addition, Cricket offers seven expanded plans with enhanced features. *Id.* at Exh. C.

FCC Orders

Forbearance from the service area conformance requirement of the FCC rules: In February 2012, the FCC conditionally granted, for Lifeline-only support, Cricket's request for forbearance from the service area conformance requirement of section 214(e)(6) of the Act and section 54.207(b) of the FCC rules.⁶

Compliance Plan: The FCC approved Cricket's Compliance Plan outlining how the Company will comply with conditions imposed in the Forbearance Order in order to receive the federal Lifeline-only support. On February 7, 2012, the FCC concluded that Cricket's Compliance Plan adequately implements the conditions of forbearance. Accordingly, Cricket is eligible to seek ETC designation for Lifeline-only support without "conforming" its service area to that of the underlying rural telephone company provided that it fulfills the commitments in its Compliance plan in each state where it is designated to provide Lifeline service.⁷

STAFF RECOMMENDATION

Staff has reviewed Cricket Communications' Application to amend its ETC designation to add the 10 new wire centers. As in the original ETC Application, Staff believes that Cricket demonstrates an understanding of its ETC requirements and a commitment to fulfill the obligations of an ETC in the expanded area: The Company will provide all universal services

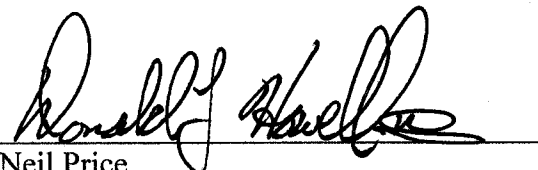
⁵ *Id.* See *In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order 09-18, para. 39.

⁶ *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197, Order DA-158, 26 FCC Rcd at 13723, 13726-27, Paras. 1, 9 (rel. February 7, 2012).

⁷ Cricket's Compliance Plan Order, para. 1.

throughout its current and expanded territory; the Company satisfies the public interest analysis; the Company will provide multiple service plans to meet a variety of consumer needs for low-income service; and the Company will continue to meet its obligation to collect and remit ITSAP and 911 fees. Staff, therefore, believes Cricket's Application to amend its ETC designation is in the public interest and recommends approval.

Respectfully submitted this 24th day of October 2012.

for 
Neil Price
Deputy Attorney General

Technical Staff: Grace Seaman

i:umisc:comments/crit11.1npgs comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24th DAY OF OCTOBER 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. CRI-T-11-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

BILL SMITH
CORP RELATIONS SUPER
CRICKET COMMUNICATIONS
6380 S FIDDLERS GREEN CR
GREENWOOD VILLAGE CO 80111
E-MAIL:
governmentinquirey@cricketcommunications.
com

ALAN J GALLOWAY
DAVIS WRIGHT TREMAINE LLP
1300 SW FIFTH AVE STE 2300
PORTLAND OR 97201-5630
E-MAIL: alangalloway@dwt.com



SECRETARY

CERTIFICATE OF SERVICE