

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: OCTOBER 14, 2010

SUBJECT: GOLD STAR COMMUNICATIONS' APPLICATION FOR ETC
DESIGNATION, CASE NO. GOL-T-10-01

On June 8, 2010, Gold Star Communications, LLC filed an Application seeking designation as an eligible telecommunications carrier (ETC) pursuant to the federal Telecommunications Act and this Commission's Order No. 29841. Gold Star is a commercial mobile radio services (CMRS) carrier providing mobile wireless services and conducts business as "Silver Star Wireless." Designation as an ETC would allow Gold Star to receive monetary support from the federal Universal Service Fund (USF) and to participate in the Link-Up and Lifeline programs.

On September 9, 2010, the Commission issued Order No. 32066 soliciting comment in response to Gold Star's ETC Application. According to the Order, comments in the Modified Procedure docket were to be submitted no later than September 30, 2010. The only comments submitted were filed by the Commission Staff.

APPLICATION

Gold Star is currently licensed to serve two "basic trading areas" (BTAs) in Idaho: BTA 202 (Idaho Falls) and BTA 353 (Pocatello). Gold Star has entered into a lease arrangement with Syringa Wireless, LLC for use of Syringa's wireless spectrum in the areas of Wayan and the Smokey Canyon Mine owned by the J.R. Simplot Company. Gold Star is authorized to provide wireless service under its two BTAs in the following Idaho counties: Bonneville, Teton, Madison, Bingham, Butte, Custer, Lemhi, Jefferson, and Clark. Application at 2.

The Company proposes to deliver ETC services in Teton County, eastern and northern Caribou County, and eastern Bonneville County served by the incumbent ILECs, Silver Star Telephone Company and Columbine Telephone (dba Teton Telecom).

Gold Star's Application states that it satisfies all of the statutory and regulatory requirements for ETC designation. Gold Star asserts that it will offer the services required for carriers to be eligible for federal USF funding, including voice grade access, local calling, access to 911 services, and the ability to remain functional in emergency situations. Gold Star requests that it be designated as eligible to receive all available supports from the federal USF including support for rural, insular and high-cost areas and low-income customers in the proposed service area. Gold Star further asserts that it will comply with all applicable Idaho service quality standards and consumer protection rules, as well as those standards established by the Cellular Telephone Industry Association (CTIA) consumer code.

Gold Star states in its Application that granting it ETC designation is in the public interest because its universal service offering will provide consumers in rural eastern Idaho "with the benefits of increased competitive choice and quality service . . . including high-speed data transmission capabilities." Application at 14-15. The carrier further states that its designation as an ETC will have "a nominal impact on the federal [USF] if calculated using the FCC's current 'identical support' rule." *Id.* at 18. Gold Star insists that it will not engage in "cream skimming" and that it will serve all customers where it is able to provide wireless service regardless of population densities. *Id.* at 17-18.

STAFF COMMENTS

Staff recommended that the Commission approve Gold Star's Application for ETC designation. Comments at 11. Staff examined the federal and state criteria used to evaluate ETC applications. Staff reviewed the public interest standards for: (1) cost-benefit analysis; (2) potential for cream skimming; (3) impact on the federal USF; and (4) state and federal precedent.

1. Cost-Benefit Analysis. While Staff does not advocate one technology over another, it recognizes that each communications technology has unique advantages and disadvantages depending upon the geography, demographics, and technological needs of the proposed service area. After reviewing Gold Star's Application, Staff concluded that Gold Star's two-year network improvement plan "may be more cost-effective to implement for a wireless

provider than a similar plan may be for the [landline] ILEC and, therefore, consumers will more likely see improved services.” Comments at 5.

2. Cream Skimming. Gold Star is not seeking ETC designation in partial wire centers and is proposing to serve some of the more sparsely populated and more costly study areas in Idaho. Staff observed that the list of wire centers proposed to be served by Gold Star include the entire service areas of Silver Star and Columbine. Staff determined that Gold Star’s proposal to serve all of the service area avoids the appearance of cream skimming.

3. Impact on the USF. Gold Star asserted that receipt of high-cost funds will have a nominal impact on the federal USF. Gold Star calculated that it might receive an estimated \$648,000 per year in USF support, which is less than 0.015% of the high-cost portion of the federal USF, assuming \$4.3 billion in high-cost support per year. *Id.* at 6. Staff expressed concern that the federal USF was not intended to provide equal funding for both the ILEC and an affiliate ETC operating in the same service area as would be the case with Silver Star Telephone and Gold Star Communications. Staff specifically noted that the FCC imposed an interim cap on the amount of high-cost support that competitive ETCs (CETCs) may receive in each state. “All newly designated and existing CETCs in Idaho will share the high-cost USF support in the amount that was distributed to Idaho CETCs in March 2008.” Comments at 10. Although there are some exceptions, Staff noted that the interim cap will remain in place until the FCC adopts comprehensive reform measures. *Id.*

Despite these concerns, Staff does recommend approval of this Application because Gold Star meets all of the statutory requirements for ETC designation. Withholding approval would also deny rural consumers the benefit of the state and federal Lifeline and Link-Up support as well as the wireless technology.

4. State and Federal Precedent. Staff noted that designating Gold Star as an ETC is consistent with prior cases of both the FCC and this Commission.

Staff also stated that it believes Gold Star meets the seven ETC designation requirements set out in Appendix 1 of Order No. 29841. *Id.* at 9. In addition, Staff maintained that Gold Star’s network improvement plan is in sufficient detail and appears reasonable. If “Gold Star is granted ETC designation, the annual submission of the Two-Year Network Improvement Plan and Progress Report will hold the Company accountable for making a reasonable effort to implement” the plan. *Id.* at 8.

In conclusion, Staff recommended that the Commission approve the ETC Application for Gold Star to serve in Teton County, eastern and northern Caribou County, and eastern Bonneville County served by Silver Star Telephone and Columbine Telephone.

COMMISSION DECISION

Should the Application of Gold Star Communications, LLC for designation as an ETC to serve the areas identified above be approved?



Don Howell
Deputy Attorney General

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