

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION ) CASE NO. SAG-T-19-01**  
**OF SAGE TELECOM COMMUNICATIONS, )**  
**LLC FOR DESIGNATION AS AN ELIGIBLE )**  
**TELECOMMUNICATIONS CARRIER ) ORDER NO. 34314**  
**)**

---

On January 25, 2019, Sage Telecom Communications, LLC dba TruConnect (“TruConnect” or “Company”) applied to the Commission for an Order designating it as an eligible telecommunications carrier (“ETC”) in the State of Idaho providing Lifeline-only services (“Application”). On March 7, 2019, the Commission issued a Notice of Application and Notice of Modified Procedure setting comment and reply comment deadlines. Order No. 34266. Now, the Commission issues this Order approving the Application.

**BACKGROUND**

***A. The Universal Service Fund and Lifeline***

The Federal Communications Commission (“FCC”) established the federal Universal Service Fund (“USF”) with the intent to make adequate, efficient communications available nationwide, at reasonable charges. *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training (“Lifeline and Link Up Reform Order”)* 27 F.C.C.R. 6656, at 6660-62 (Feb. 6, 2012); 47 U.S.C. § 254(b).<sup>1</sup> Lifeline is a program supported by the USF that provides monthly discounts to eligible low-income subscribers in order to maintain access to communications networks. *Lifeline and Link Up Reform Order*, 27 F.C.C.R. 6656 at 6662-63. High-cost support from the USF, through the Connect America Fund, addresses initial connections for services in high-cost areas. *See In the Matter of Connect America Fund*, 27 F.C.C.R. 4040, 17672-73 (Nov. 18, 2011) (goals for high-cost support include ensuring and advancing the availability of communications services).

Idaho has a state USF program, established in *Idaho Code* §§ 62-610 and 62-610A-610F. Idaho also has a Lifeline program known as the Idaho Telecommunications Service Assistance Program (“ITSAP”). *Idaho Code* § 56-901.

---

<sup>1</sup> See also *Rural Telephone Coalition v. FCC*, 838 F.2d 1307, 1315 (D.C. Cir. 1988).

### ***B. ETC Designation Requirements***

Under the federal Telecommunications Act, a carrier designated as an ETC is eligible to receive federal support from the USF. 47 U.S.C. § 214(e). Jurisdiction to grant ETC designations rests with state commissions. 47 U.S.C. § 214(e)(2); *Idaho Code* §§ 62-610D(1), 62-615(1); Order No. 29841 (“ETC Requirements Order”). Under this authority, this Commission has granted ETC designations to numerous carriers in Idaho, including wireless carriers. *See e.g.* Order Nos. 29841, 32586, 32645.

To qualify as an ETC, an applicant must satisfy several requirements established in federal and state law. 47 U.S.C. § 214(e); Order No. 29841. Under the federal Telecommunications Act, the applicant must be a “common carrier” and must offer services supported under Section 254(c) of the Act “using its own facilities or a combination of its own facilities and resale of another carrier’s services,” unless otherwise granted FCC forbearance. 47 U.S.C. §§ 153(10), 214(e)(1)(A), 160(a)(3) (FCC has regulatory flexibility to forbear application where consistent with public interest). The Telecommunications Act also requires that the applicant “advertise the availability of such services and the charges therefor using media of general distribution.” 47 U.S.C. § 214(e)(1)(B).

Under the Act, state commissions shall determine whether granting the requested ETC designation is “consistent with the public interest, convenience, and necessity.” 47 U.S.C. § 214(e)(2). In evaluating this public interest element, this Commission has generally considered two factors. *See* Order Nos. 33002 at 2-3, 33226 at 3. First, the Commission evaluates whether the carrier contributes to state assistance programs such as ITSAP and the Idaho Telecommunications Relay Services program. *Id.*; *Idaho Code* § 61-1301. Second, the Commission considers if the designation is sought for only part of a rural telephone company’s study area, thus leaving some (perhaps less profitable) customers without service. *Id.* Such practice, known as “cream skimming,” is contrary to the public interest. *Id.*

Federal regulations include the following additional requirements, which the Commission has adopted in evaluating applications for ETC designation: (1) compliance with service requirements applicable to support received; (2) submission of a plan for proposed improvements or upgrades to the network, where applicable; (3) demonstrated ability to remain functional in emergencies without an external power source; (4) demonstrated willingness to satisfy consumer protection and service quality standards; (5) financial and technical capability to

provide Lifeline service; (6) notice to affected Tribes where designation is sought for any part of Tribal lands. 47 C.F.R. § 54.202; Order No. 29841.

For applicants seeking Lifeline-only ETCs, the FCC has waived the requirement to submit a network improvement and upgrade plan, noting that such ETCs do not receive funds to improve or extend their networks. *Lifeline and Link Up Reform Order*, 27 F.C.C.R. 6656, ¶ 386. This Commission – which requires a two-year network improvement plan and progress report (Order No. 29841 at 18) where applicable – has also waived the requirement where a Lifeline-only ETC is requested. Order No. 33002 at 3, *citing Lifeline and Link Up Reform Order*, 27 F.C.C.R. 6656, ¶ 386.

### THE APPLICATION

TruConnect provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of Sprint Spectrum, Verizon Wireless, and/or T-Mobile. The Company operates as a Mobile Virtual Network Operator. The Company is designated as an ETC in 24 states and Puerto Rico. The Company states that it has the ability to provide all services supported by the universal service program throughout Idaho. The Company states that its Lifeline-supported voice and broadband services will meet or exceed the minimum service standards in 47 C.F.R. § 54.408. The Company's proposed Lifeline offerings will include 1,000 voice minutes, unlimited text messages, and 2 gigabytes of data per month at a net cost of \$0.00 per month after application of Lifeline support, with additional voice minutes and data for purchase.

The Company states it will not seek access to funds from the USF for the purpose of participating in the Link Up program or providing service to high-cost areas. The Company requests its designation as an ETC include the authority to participate in and receive reimbursement from the ITSAP.

### COMMENTS

Staff filed the only comments, and recommended the Commission approve the Application. Staff determined the Company's ETC Application is in the public interest as the Company will participate in the appropriate Idaho programs, and requests designation statewide; therefore, no cream skimming concerns arise. Staff determined the Company is not required to file a two-year network improvement and progress report with the Commission because the Company seeks Lifeline-only ETC designation. Staff agrees that TruConnect's underlying carriers

provide sufficient ability for the Company to remain functional in an emergency. Staff believes the Company meets all additional requirements for ETC designation.

### **COMMISSION FINDINGS AND DECISION**

The Commission has authority to grant ETC designation to a telephone company under federal and state law. 47 U.S.C. § 214(e), *Idaho Code* §§ 62-610D, 62-615(1). The Commission has reviewed and considered the record, including TruConnect's Application and exhibits, and Staff comments. We now make the following findings.

#### ***A. § 214 of the Telecommunications Act of 1996***

We first address the requirements listed in § 214(e)(1) of the Telecommunications Act of 1996. That provision requires an applicant to be a "common carrier," as defined by 47 U.S.C. § 153(11), that offers services "using its own facilities or a combination of its own facilities and resale of another carrier's services." 47 U.S.C. § 214(e)(1)(A). On the record before us, we find that TruConnect is a "common carrier" under the definition found at 47 U.S.C. § 153(11). We further find that the FCC has granted forbearance from the "own-facilities" requirement in § 214(e)(1)(A) for Lifeline-only ETCs through its *Lifeline and Link Up Reform Order*.<sup>2</sup> 47 U.S.C. § 214(e)(1)(B) requires the Company to "advertise the availability of [its] services and the charges therefor using media of general distribution." The Company makes adequate assurances in its Application that it will comply with this provision. Application at 14-15, Ex. 5. Based on the foregoing, we find that the Company satisfies the requirements of 47 U.S.C. § 214(e)(1).

#### ***B. Public Interest***

In examining the public interest under 47 U.S.C. § 214(e)(2), we first consider whether the Company would contribute to the appropriate Idaho funds. *See* Order No. 33226 at 3. In its Application, the Company committed to remit required ITSAP funds to the ITSAP administrator. Because the Company is applying for Lifeline-only designation as an ETC and does not seek high-cost support, we find that the Company fulfills this first prong of our analysis. Next, we consider whether the Company attempts to engage in "cream skimming." Order No. 29841 at 16. In Order No. 29541 we explained, "Rural cream skimming occurs when competitors seek to serve only the low-cost, high-revenue customers in a rural telephone company's study area." Order No. 29541 at 16. The Company requests designation statewide (excluding tribal lands), not merely in low-

---

<sup>2</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, *et al*, and Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38.

cost areas. Application at 13. Therefore, the Company's Application does not raise cream-skimming concerns. Thus, we find that granting the Company's Application is consistent with the public interest.

### ***C. Remaining Requirements***

Finally, we address the six remaining requirements from federal regulations and our ETC Requirements Order. 47 C.F.R. § 54.202; Order No. 29841.

(1) Service Requirements for Support Received. We find that TruConnect has demonstrated compliance. Application at 11-13.

(2) Plan for Proposed Improvements or Upgrades to the Network. Consistent with our prior Orders, and that of the FCC, we find this requirement inapplicable because TruConnect seeks a Lifeline-only ETC designation for which it will receive no network improvement funds. Order Nos. 29841, 32501; *Lifeline and Link Up Reform Order*, 27 F.C.C.R. 6656, ¶ 386 (requirement waived because Lifeline-only ETCs receive no network improvement funds).

(3) Ability to Remain Functional in Emergencies. We find the Company has demonstrated compliance. *See* Application at 16.

(4) Willingness to Satisfy Consumer Protection and Service Quality Standards. We are satisfied with the Company's assurances as to this requirement. *See Id.* at 16-17.

(5) Financial and Technical Capability. Based on the Company's assurances, we also find this requirement is satisfied. *See Id.* at 17.

(6) Notice to Affected Tribes. TruConnect does not seek ETC designation on tribal lands with this Application; therefore, this provision is inapplicable. *See Id.* at 13.

Based on the above findings, we conclude that TruConnect has satisfied the federal and state requirements for an ETC designation, and we therefore grant the Application.

### **ORDER**

IT IS HEREBY ORDERED that the Application of TruConnect for designation as an ETC throughout Idaho, excluding tribal lands, is granted.

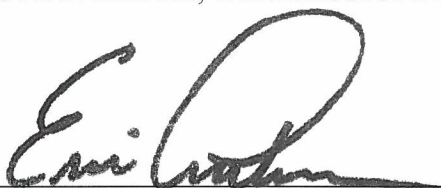
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* §§ 61-626, 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this  
day of April 2019.

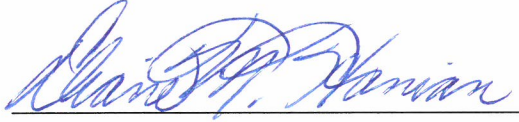
17<sup>th</sup>

  
\_\_\_\_\_  
PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
KRISTINE RAPER, COMMISSIONER

  
\_\_\_\_\_  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Diane M. Hanian  
Commission Secretary

I:\Legal\TELEPHONE\SAG-T-19-01\SAGT1901\_final order\_ej