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Attorney for the Commission Staff

## **BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>SAGE TELECOM COMMUNICATIONS, LLC</b>	)	<b>CASE NO. SAG-T-19-01</b>
<b>FOR DESIGNATION AS AN ELIGIBLE</b>	)	
<b>TELECOMMUNICATIONS CARRIER</b>	)	<b>COMMENTS OF THE</b>
	)	<b>COMMISSION STAFF</b>
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**STAFF OF** the Idaho Public Utilities Commission, by and through its Attorney of record, Edward Jewell, Deputy Attorney General, submits the following comments.

### **BACKGROUND**

On January 24, 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”) for the sole purpose of providing Lifeline services to qualifying consumers in the State of Idaho. The lifeline program is intended to provide more affordable telecommunications service benefits to eligible low-income customers through the federal Universal Service fund (“USF”) and the Idaho Telecommunications Service Assistance Program (“ITSAP”). Idaho participates in the residential Lifeline program pursuant to *Idaho Code* §56-901. See Order No. 21713.

## The Application

TruConnect is a Texas Limited Liability Company with its principal place of business in Los Angeles, California. Application at 3. TruConnect provides prepaid wireless telecommunications services to consumers by using the underlying wireless networks of Sprint Spectrum, L.P. and Verizon Wireless and/or T-Mobile USA, Inc. on a wholesale basis. *Id.* at 4. TruConnect states that it will operate throughout Idaho, excluding tribal lands. *Id.* at 13. TruConnect asserts that it meets the requirements of Section 214(e)(1)<sup>1</sup> of the federal Telecommunications Act to be designated as an ETC. *Id.* at 10-12.

TruConnect asserts it is entitled to ETC designation under 47 U.S.C. § 214(e)(2), which authorizes state commissions to designate wireless ETCs. *Id.* at 11-12. The Company asserts that it: (1) is a common carrier; (2) has the financial and technical capability to provide Lifeline service; (3) commits and is able to provide services supported by federal universal support mechanisms; (4) will advertise the availability of supported services in a manner reasonably designed to reach those likely to qualify; (5) commits to provide service throughout its service area in Idaho; (6) is capable of remaining functional in emergency situations; (7) is committed to consumer protection and service; (8) will comply with all program uniform eligibility requirements; and (9) will comply with requirements imposed by this Commission for ETC status. *Id.* at 11-19.

The Company further states that granting it ETC designation would promote the public interest, and fulfill one of the principal goals of the Communications Act of 1934, as amended by the Telecommunications Act of 1996; to secure lower prices and higher quality services for consumers and encourage the rapid deployment of new telecommunications technologies to all citizens, regardless of geographic location or income. *Id.* at 19. Specifically, the Company contends that ETC designation is in the public interest because: (1) wireless service includes larger local calling areas (as compared to traditional wireline carriers); (2) mobile telephone service provides convenience and security for customers; (3) customers can control cost by receiving a preset amount of monthly airtime and data at no net cost; (4) customers can purchase additional usage at flexible and affordable amounts in the event that included usage has been

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<sup>1</sup> In December 2011, the FCC amended the list of required services for ETC designation by removing dual tone signaling, single-party service, and access to operator services, interexchange services, and directory assistance. In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking, 27 F.C.C. Rcd. 6656 at ¶365 (Feb. 6, 2012).

exhausted; (5) customers receive 911/E911 service in accordance with current FCC requirements; and (6) granting ETC status to TruConnect will increase the number of ETCs in Idaho. *Id.* at 19-22.

### **TruConnect's Lifeline Service Offerings**

TruConnect intends to offer qualified customers one Lifeline Service Plan: (1) Basic Lifeline Plan. *Id.* at 5-6. The Basic Lifeline Plan would provide 1000 voice minutes, unlimited texts, and 2 GB of data. *Id.* The Company notes that all of its proposed plans would enable Lifeline customers the capability of purchasing additional voice minutes and/or data to supplement their Lifeline plans according to the proposed lifeline offering. *Id.* at 5.

The Company acknowledges that, under 47 U.S.C. § 214(e)(1)(A) of the Telecommunications Act of 1996, ETCs must offer services, at least in part, utilizing their own facilities. *Id.* at 10-11. The Company seeks to proffer services only through resale of other carriers' facilities. *Id.* However, TruConnect invokes the FCC's 2012 Lifeline and Link Up Reform Order.<sup>2</sup> The Company states that the FCC granted forbearance to any telecommunications carrier that seeks Lifeline-only ETC if the ETC complies with certain 911 requirements and the ETC files a compliance plan with the FCC describing the ETC's adherence to certain protections prescribed by the FCC, and such plan is approved. Application at 11. The Company attached its approved Compliance Plan as Exhibit 3 to the Application.

TruConnect further asserts that it is not seeking high-cost support for its wireless service, and therefore qualifies for a waiver of the Commission requirements in Order No. 29841 Section B.1 to provide a two-year network improvement and maintenance plan. The Company reads this requirement to be based on the receipt of high-cost support. *Id.* at 18-19.

### **STAFF ANALYSIS**

Staff has reviewed TruConnect's Application along with the FCC-approved Compliance Plan. Staff has conducted an analysis of the Company's fulfillment of the federal Telecommunications Act of 1996, the proceedings in FCC 16-38 including the Lifeline and Link Up Reform and Modernization Order, the Third Report and Order, Further Report and Order,

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<sup>2</sup> 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, 27 F.C.C.R. 6656,

and Order on Reconsideration, as well as Commission Order No. 29841. Specific state and federal requirements for ETC designation are discussed in more detail as follows.

### **Public Interest Considerations**

Staff typically applies a two-prong test when analyzing whether a Company's ETC Application is in the public interest. First, Staff determines whether the Company contributes to Idaho funds. Second, Staff analyzes whether the Company's Application raises "cream skimming" concerns.

In the Company's Application, TruConnect confirmed that upon approval as an ETC in Idaho, the Company would participate in the appropriate Idaho programs, specifically the Idaho Lifeline program and the 9-1-1 program and any future reporting requirements deemed appropriate for competitive telecommunications providers. See Application at 18. The Company requests ETC designation statewide. *Id.* at 13-14. Therefore, no cream skimming analysis is required. Thus, Staff believes TruConnect satisfies the public interest considerations.

### **Network Improvement Plan**

In the Idaho ETC Designation Order,<sup>3</sup> a two-year network improvement and progress report is required of all ETCs receiving high-cost support. See Order No. 29841 at 18. However, the Commission determined in Cricket Communications, Inc.'s ETC Application in CRI-T-11-01 that a two-year network improvement plan was not applicable to Lifeline-only ETCs. Order No. 32501.

In the USF/ICC Transformation Order, the FCC amended 47 C.F.R. §54.202 to clarify that a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC. Lifeline-only ETCs do not receive high-cost funds to improve or extend networks, therefore the FCC "saw little purpose in requiring such plans as part of the ETC designation process."<sup>4</sup> TruConnect's Application seeks only low-income federal USF support as a Lifeline-only ETC.

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<sup>3</sup> In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up Universal Service Reform – Mobility Fund, WC Dkt No. 10-90 et al.

<sup>4</sup> See Lifeline and Link up Reform and Modernization et al, WC Dkt No. 11-41 et al. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at para 386.

Thus, Staff agrees that a network improvement plan is not a requirement for TruConnect's ETC Application.

### **Ability to Remain Functional in Emergencies**

The Company states that it has the ability to remain functional in emergency situations in accordance with Commission Order No. 29841 and 47 C.F.R. §54.202(a)(2). Application at 16. TruConnect asserts that because it is reselling wireless services, the Company is able to provide the same ability to remain functional in emergency situations as the underlying carriers provide to its own customers. Namely, the Company asserts that the underlying carrier networks "have access to a reasonable amount of back-up power to ensure functionality without an external power source, are able to reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations." *Id.* at 16. Staff agrees TruConnect satisfies this requirement.

### **Other ETC Designation Requirements**

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and are discussed in more detail below.

1. Common Carrier Status. TruConnect is a common carrier as defined in U.S.C. Title 47. *Id.* at 11.

2. Provide Universal Services. TruConnect will provide all required services and functionalities as set forth in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)). *Id.* at 12.

3. Advertising. TruConnect will advertise the availability and rates for its services described in the Application through media of general distribution as required by 47 U.S.C. §214(e)(1)(B). *Id.* at 14.

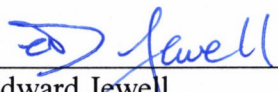
4. A Commitment to Consumer Protection and Service. TruConnect commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards, including compliance with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service as required by 47 C.F.R. §54.202(a)(3). *Id.* at 18-19.

5. Description of the Local Usage Plan. TruConnect will offer one Lifeline Service Plan. *Id.* at 4-6. Furthermore, the Company will meet or exceed the minimum service standards set forth in 47 C.F.R. §54.408, including any changes to the standards going forward. *Id.* at 5.

#### **STAFF RECOMMENDATION**

Based on its review of the Company's Application, Staff believes that the Application demonstrates the Company's commitment to fulfill the obligations of a Lifeline-only ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory; it has addressed all of the public interest questions that accompany an ETC Application; TruConnect's compliance plan has been approved by the FCC; and it will provide multiple pricing plans, which will increase consumer choice for low-income telephone service in Idaho. Thus, Staff believes TruConnect's Application for designation as an ETC is in the public interest and should be approved for the entire state.

Respectfully submitted this 28th day of March 2019.

  
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Edward Jewell  
Deputy Attorney General

Technical Staff: Daniel Klein

i:umisc/comments/sagt19.1ejdk comments

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 28<sup>TH</sup> DAY OF MARCH 2019, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. SAG-T-19-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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CERTIFICATE OF SERVICE