

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held September 3, 2015

Commissioners Present:

Gladys M. Brown, Chairman
John F. Coleman, Jr., Vice Chairman
James H. Cawley
Pamela A. Witmer
Robert F. Powelson

Petition of i-wireless, LLC, for
Limited Designation as an Eligible
Telecommunications Carrier

Docket No. P-2011-2235119

ORDER

BY THE COMMISSION:

Petitioner, i-wireless, LLC (i-wireless), seeks approval from the Pennsylvania Public Utility Commission, for designation as an Eligible Telecommunications Carrier (ETC) throughout the Commonwealth¹ for the limited purpose of providing Lifeline service to qualified low income consumers, pursuant to Section 214(e)(2) of the

¹ By petition dated April 4, 2011, i-wireless requested ETC designation as a "wireless carrier" in areas throughout Pennsylvania where its underlying carrier, Sprint Spectrum L.P. (Sprint), provides coverage. (Petition at 16). By amended petition filed April 26, 2012, i-wireless further supported its request for ETC designation. In its petition, i-wireless provided a detailed map of the service territories in its proposed service area, (Petition, Exhibit 8), and a detailed wire center list (Amended Petition, Exhibit 3). i-wireless also notified the Commission that the FCC had approved its revised Compliance Plan on October 21, 2011, (Amended Petition, p.11, Fn. 24) granting i-wireless forbearance from certain applicable provisions of the federal code, which is a precondition to seeking Lifeline-only support from the federal Universal Service Fund. A copy of i-wireless' Compliance Plan was attached (Amended Petition, Exhibit 5) together with the FCC's Forbearance approval order (Amended Petition, Exhibit 4).

Communications Act of 1934, as amended.² Notice of i-wireless's petition was published in the Pennsylvania Bulletin at 41 *Pa.B.*4276 on August 6, 2011. The Office of Consumer Advocate (OCA) filed Comments on August 26, 2011, in support of the grant of ETC designation. Subsequent to the OCA's comments, i-wireless filed an amended petition on April 26, 2012. i-wireless also filed responses to Staff's inquiries as the Supplement to the Petition filed August 24, 2011, and again as the First and Second Supplement to the Amended Petition filed on December 14, 2014, and April 21, 2015, respectively. i-wireless filed a Motion for Protective Order on April 21, 2015, requesting that its confidential and proprietary service and financial information be withheld from public disclosure.

At the time of filing its Petition, as amended, i-wireless informed the Commission that it is a Limited Liability company organized under the laws of North Carolina in 2006. i-wireless currently provides prepaid, Lifeline services to qualifying low-income consumers or households through its partnership with The Kroger Company (Kroger). Currently i-wireless has partnerships with 252 Kroger-owned stores in Pennsylvania (branded "Turkey Hill Minit Markets"). i-wireless offers wireless service as a reseller through its wholesale agreement and in the service area covered by its underlying facilities-based carrier Sprint Spectrum L.P. (Sprint). i-wireless offers its Lifeline services under the brand designation of "Access Wireless." (Petition at p. 3).

² 47 U.S.C. § 214(e)(2). The Company seeks approval only for Lifeline service as a prepaid wireless carrier and does not seek approval for funding from the High Cost portion of the federal Universal Service Fund or Link-Up funds, which are used to offset the initial installation of telephone service. i-wireless will not charge a service activation fee. (Amended Petition, p. 2) Under the FCC's *Lifeline Reform Order*, Link-Up support from the federal USF has been eliminated for all ETCs. *Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Dkt. Nos. 11-42, *et al.*, CC Dkt. No. 96-45, FCC 12-11 (rel. Feb. 6, 2012) at p. 107 (*Lifeline Reform Order*). Carriers that include a Link-Up fee in their Lifeline rates will not be able to offset that cost from the federal USF support. Charges for Link-Up which will be passed on to consumers will warrant closer scrutiny. However, as stated earlier, i-wireless' Lifeline plans reflect that it does not charge a Link-Up fee to its customers.

The federal Universal Service Fund (USF) Lifeline program's aim is to encourage universal provision of telecommunication services by offering low-income consumers more choices for affordable telecommunications service. Carriers designated as ETCs are eligible to receive a certain dollar amount from the federal USF in support of the offering.³ ETC designation for a prepaid wireless carrier raises concerns for not only the continued viability of the federal USF mechanism, as it relates to low-income support, but also the implications for Pennsylvania citizens as net contributors to that fund and for the public safety of our citizens in the provision of operational capacity and access services for 911 calls during emergency situations. Also, as with any subsidy program, we recognize the special need to guard against potential waste, fraud and abuse for wireless accounts drawing support subsidies from the federal USF Lifeline (or Low Income) program. Wireless carriers' adherence to Pennsylvania's eligibility verification and reporting requirements will assure uniformity among Lifeline services offered by different ETCs, safeguard the integrity of the federal USF Lifeline funds from waste, fraud and abuse, and provide consumer protection for low-income consumers.

Designation as an ETC for provision of Lifeline service would permit i-wireless to participate in the federal USF Lifeline program in order to receive universal service support for these services. In its Petition, i-wireless' proposed offering is as follows:

Option 1: Lifeline 250 Minutes Plan*

250 anytime minutes per month
(1 SMS text message = 1 minute of usage)

Net Cost to Lifeline customer: \$0

³ The FCC eliminated the previous system of tiered support and set an interim rate of \$9.25 per month per eligible subscriber effective May 1, 2012. *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Dkt. No-11-42 *et al.*, Report an Order and FNPRM (rel. February 6, 2012) (*Lifeline Reform Order*). i-wireless's current offering if approved for ETC purposes, would be eligible for the \$9.25 rate of support.

Option 2: Lifeline Retail Discount Plan*

Lifeline eligible customers may apply their Lifeline discount, currently \$15,⁴ to any i-wireless monthly retail plan (excluding text only plans). Current retail monthly plans are listed at www.krogeriwireless.com.

**both options include:*

- Free handset
- Free access to Voicemail, Caller-ID and call waiting features
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Nationwide Coverage
- Domestic Long Distance at no extra charge
- Unused minutes can rollover to following month

Additional Airtime:

Amount	Talk Minutes	Unlimited Text	Data	Picture Mail
\$10	150	10 days	100MB	25
\$25	300	30 days	500MB	50
\$35	Unlimited	30 days	500MB	50
\$50	Unlimited	30 days	2GB	100

See, Second Supplemental to the Amended Petition, Exhibit 1.

The offering affords customers a Lifeline 250-minute Plan, which includes 250 minutes that do roll over on a monthly basis, and can be used for local and domestic long distance calling. The plan includes a free 911/E911 compliant handset; the ability to text is available. The plan also includes Caller ID, Call Waiting, Call Forwarding, 3-Way Calling and Voicemail at no charge. *Id.*

Additional Airtime minutes are available for purchase in denominations of \$10, \$25, \$35, and \$50. In addition, customers who qualify for Lifeline have the option of applying their Lifeline discount to any of i-wireless's service offerings, including its pre-

⁴ The discount applied to retail services is \$15, which reflects the \$9.25 monthly federal support level, plus a company credit of \$4.75 applied toward the retail offering.

paid minute plans that include data services. i-wireless's Additional Airtime are available in 10 and 30-day increments, and include text messaging and data service. i-wireless' Additional Airtime may also be purchased as standalone prepaid service plans. *Id.*

These service plans, available as standalone prepaid plans or as Additional Airtime, are available for purchase at i-wireless's retail locations and on its website. All low-income universal service support will be used to allow i-wireless to provide the Plan with no recurring monthly charge, or provide a Lifeline discount on available service plan offerings, thus ensuring that Lifeline consumers receive the full benefit of the universal service support funding for which i-wireless will seek reimbursement. i-wireless will not deduct airtime minutes for calls made by Lifeline customers to i-wireless' Customer Service, or for calls or texts made by i-wireless to Lifeline customers to address billing, customer care and customer service issues. *Id.*

We have reviewed i-wireless' Lifeline-only ETC Petition, as amended and supplemented, its FCC approved Compliance Plan, and the Comments filed by the OCA. i-wireless' Petition is hereby approved under applicable federal criteria contained in the FCC's several *Universal Service Orders* and other relevant federal and Pennsylvania law.⁵ Accordingly, we conclude that it is in the public interest that i-wireless be designated as an ETC for the area of service defined by wire-centers listed. *See*, First Supplement to the Amended Petition at Exhibit 3. This service area may overlap the rural service territories of incumbent local exchange carriers in Pennsylvania (ILECs) for the purpose of offering pre-paid wireless Lifeline services to low-income customers, subject to the conditions stated by this order and applicable reporting requirements and annual recertification requirements.

⁵ We note that i-wireless's Lifeline-only ETC designation Petition, as amended and supplemented is hereby approved under applicable federal criteria contained in the FCC *USF/ICC Transformation Order*.

BACKGROUND

I. FCC And State ETC Orders

In 2005, the Federal Communication Commission (FCC), in the *Matter of Federal-State Joint Board on Universal Service*, First Report and Order, FCC Docket No. 96-45, 20 FCC Rcd 6371 (*First Universal Service Report and Order* or *2005 ETC Order*) addressed the minimum requirements⁶ for a telecommunications carrier to be designated as an ETC, and thus eligible to receive federal universal service support. Specifically, consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), the FCC adopted additional mandatory requirements for ETC designation proceedings in which it acted pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended. Additionally, as recommended by the Joint Board, the FCC encouraged states that exercise jurisdiction over ETC designations to adopt these same requirements when deciding whether a common carrier should be designated as an ETC.

Accordingly, on August 2, 2010, the Commission entered its order adopting the *Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support* at Docket No. M-2010-2164741 (*ETC Guidelines Order*), which codifies the guidelines at 52 Pa. Code § 69.2501 (*ETC Guidelines*). By Secretarial Letter dated September 10, 2010, the Commission notified all carriers and interested parties on pending ETC petitions of the newly adopted ETC guidelines and invited carriers to supplement their petitions, consistent with the guidelines.

⁶ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 877 (1997).

Subsequently, the FCC has issued several orders impacting pending petitions for ETC designation in Pennsylvania.⁷ Significantly, the FCC's order, *Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking (FNPRM), WC Dkt. Nos. 11-42 *et al.*, FCC 12-11 (rel. Feb. 6, 2012) (*Lifeline Reform Order*), has direct impact on all pending ETC petitions before this Commission. More recently, on June 18, 2015, the FCC adopted a second FNPRM and accompanying orders in WC Docket Nos. 11-42, 09-197, and 10-90, in which it proposed authorizing Lifeline support for broadband services (released June 22, 2015).⁸ Thus, our review of an ETC petition will be done so as to be consistent with the FCC's *Lifeline Reform Order*, subsequent orders and amended federal regulations governing ETC status, which we hereby adopt and implement in the Commonwealth as the minimum standards applicable to ETC designation. All minimum federal requirements of the FCC's *Lifeline Reform Order* not expressly discussed herein, are nonetheless applicable to ETC designation in Pennsylvania. We reserve the right to impose separate state-specific requirements where necessary for the protection of the Commonwealth's consumers.

II. I-Wireless' Petition, As Amended, Supplements And Compliance Plan

As stated earlier, i-wireless filed its petition requesting designation as an ETC in the Commonwealth of Pennsylvania, pursuant to 47 U.S.C § 214(e)(2) on April 4, 2011. i-wireless requested designation as an ETC for the limited purpose of providing prepaid wireless service with Lifeline support. i-wireless has stated that it will not charge an activation fee.⁹

⁷ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket 96-45, 19 FCC Rcd 1563 (2004) (*Virginia Cellular ETC Designation Order*); *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket 96-45, 19 FCC Rcd 6422 (2004) (*Highland Cellular ETC Designation Order*).

⁸ *In re Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, (FCC, Rel. June 22, 2015), Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, *slip op.* FCC 15-71.

⁹ The FCC's *Lifeline Reform Order* discontinued the Link Up (activation fee) support from the federal USF.

i-wireless is seeking ETC designation throughout its entire service area in Pennsylvania, which is based upon the coverage area of its underlying carrier, Sprint. Moreover, i-wireless submitted a list detailing applicable wire-centers and a map of the service area. The wire centers coverage areas includes service territory of rural local exchange carriers.¹⁰ i-wireless' proposed service area overlaps all or a portion of the respective service territories of the Pennsylvania's rural incumbent local exchange carriers (ILECs). However, i-wireless neither requests the Commission to modify the definition of rural telephone company study areas in the Commonwealth, nor seeks high cost support as an ETC.¹¹

On August 26, 2011, the OCA filed Comments in support of i-wireless' ETC designation, requesting three suggested revisions /conditions. First, the OCA submits that i-wireless' Lifeline offering should be amended to provide that all communications with i-wireless Customer Service would not count against the Lifeline plan's use of service. This concern was obviated by i-wireless' Second Supplement to the Amended Petition, where the updated terms of the proposed offering satisfy this requirement. *See*, Exhibit 1.

Second, the OCA submits that, as a pre-condition to ETC designation, i-wireless should provide more information and make express commitments to satisfy all PA-specific requirements for ETC status. OCA's concerns in this regard were directly met by i-wireless' Amended Petition, in which i-wireless provided a detailed description of the manner in which service commitments will be satisfied and by the express statements to comply with all Pennsylvania-specific requirements. *Id.* at 14-19.

Third and finally, the OCA recommends that the PUC impose the conditions for the consumer protection which have been applied to the prior designation of ETC carriers

¹⁰ *See* Petition at 16-17.

¹¹ *Id.*

which are similarly situated to i-wireless. We agree. i-wireless has satisfied this concern by its voluntary commitments to adhere to all Pennsylvania-specific requirements, particularly those related to consumer protection. (Amended Petition at pp. 18-19).

The phones provided to Lifeline customers are both free and refurbished. The phones are covered by a one-year warranty for defects and malfunction. Replacement handsets are available from i-wireless at nominal cost.

As noted earlier, no minutes will be deducted from the Lifeline subscriber's balance for calls to i-wireless customer service center, via dialing 611 or a toll free number provided. In addition, no charge or usage will be deducted from the customer's balance when i-wireless contacts the consumer via the consumer's handset.¹²

i-wireless stated that it has filed a Compliance Plan with the FCC seeking blanket forbearance from the facilities requirement under Section 214(e)(1)(A) of the Act.¹³ On July 26, 2010, i-wireless filed its initial Compliance Plan with the FCC outlining the measures it will take to implement the conditions imposed in the FCC's *Lifeline Reform Order* for its wireless service. On October 21, 2011, the FCC issued an order approving i-wireless's Amended Compliance Plan as a condition of obtaining forbearance from the facilities requirement for the provision of Lifeline service.¹⁴

All of i-wireless's Lifeline service plans are offered on a prepaid basis. i-wireless's Lifeline customers will be advised of the billing method prior to establishing Lifeline service with i-wireless. i-wireless will not collect service deposits for its Lifeline plans, will not require any credit checks or contractual commitments, and will not charge

¹² See Second Supplement to the Amended Petition, Exhibits 1 and 2 (Updated offering and Terms and Conditions).

¹³ In the *Lifeline Reform Order*, the FCC amended 47 C.F.R. § 54.101 so that Lifeline-only ETC applicants that do not meet the "facilities requirement" may qualify for ETC status upon meeting certain criteria.

¹⁴ See, Amended Petition, p. 11, fn. 24 (FCC Order approving Compliance Plan).

a number portability fee. Additionally, i-wireless certifies that it will not charge Lifeline subscribers an early termination fee or cancellation fees.

i-wireless asserts that its policy for de-enrolling an account from Lifeline support for non-use is consistent with the FCC rules, which state that accounts which are inactive for 60 days will be de-enrolled from Lifeline support following a 30-day notice of de-enrollment to the subscriber. *See* 47 C.F.R. § 54.405(e).¹⁵ Furthermore, if i-wireless has a reasonable basis to believe that a Lifeline subscriber is no longer eligible to receive Lifeline service, it will notify that subscriber of impending termination of service utilizing a combination of communication methods including sending text messages and calling the subscriber. The subscriber will then have thirty days to demonstrate otherwise.

Additionally, i-wireless certifies that, if it receives notification from the Universal Service Administrative Company (USAC), the Commission or the FCC that a subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service, i-wireless will de-enroll that subscriber in accordance with Section 54.405(e)(2) of the FCC's rules, 47 C.F.R. § 54.405(e)(2).

DISCUSSION

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support." 47 U.S.C. § 254(e). Section 214(e)(2) provides state commissions with the primary responsibility for performing ETC designations.

¹⁵ Subscribers can "use" the service by: (1) completing an outbound call; (2) purchasing minutes from the company to add to the subscriber's plan; (3) answering an incoming call from a party other than the company; or (4) responding to a direct contact from the company and confirming that the subscriber wants to continue receiving the service. *See* 47 C.F.R. § 54.405(e)(3).

Accordingly, i-wireless has petitioned the Commission seeking approval to be designated as an ETC in the Commonwealth of Pennsylvania.

ETC applicants must meet federal statutorily prescribed requirements before we can approve their designation as an ETC. Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an ETC must offer the services supported by the federal universal service mechanisms throughout the designated service area, either by using its own facilities or by using a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC), and must advertise these services throughout the designated service area. An ETC applicant must also demonstrate: (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; (4) that it offers local usage comparable to that offered by the ILEC; and (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act. 47 U.S.C. § 214(e)(4). These requirements have been codified in the FCC's rules and regulations.

In addition to meeting these statutory requirements, state commissions must also perform a "public interest" review before approving an ETC designation. Section 214(e)(2) of the Act states that, "[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier" for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1). Section 214(e)(2) further states: "[b]efore designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest." Accordingly, this Commission reserves the

right to review any designation and recertification on a case-by-case basis and grant or deny designation and recertification after balancing the weight of the circumstances particular to each application.

We note that we are not required to consider expressly or at great length each and every comment raised by a party to our proceedings. *University of Pennsylvania, et al. v. Pa. Public Utility Commission*, 485 A.2d 1217, 1222 (Pa. Cmwlth. 1984). Any comment or argument that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

I. Requirements For Designation As An ETC

We shall first discuss the federal requirements that must be met in order for an applicant to receive designation as an ETC. The FCC's rules governing ETC designations evolved from its May 8, 1997 Report and Order (*Universal Service Order*) in CC Docket No. 96-45¹⁶ and its March 17, 2005 Report and Order in the same proceeding (*2005 ETC Order*).¹⁷ Those rules and requirements have now been amended by the FCC's February 6, 2012 *Lifeline Reform Order* and are codified at 47 C.F.R. §§ 54.101, *et seq.* As set forth below, i-wireless satisfies all of the requirements of the FCC's *Universal Service Order*, the *2005 ETC Order*, the FCC's *Lifeline Reform Order*, the *USF/ICC Transformation Order* and the regulations codifying the requirements of those Orders. As stated in the order adopting them, our ETC Guidelines are intended as a starting point for review of a request for ETC designation, expressing our intent to adopt the federal standards discussed below as our minimum requirements. *ETC Guidelines Order* at p. 4.

¹⁶ See fn. 5.

¹⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005) (*2005 ETC Order*).

A. I-Wireless Satisfies The Requirements Of The FCC's Rules And Orders Governing ETC Designations

1. I-Wireless Satisfies 47 C.F.R. § 54.101(a)¹⁸ Supported Services

i-wireless attests that it currently provides all of the services and functionalities supported by the federal universal service program as set forth in Section 54.101(a) of the FCC's regulations throughout its designated service territory in the Commonwealth of Pennsylvania.

a. Voice Grade Access To The Public Switched Telephone Network

i-wireless asserts that through resold services of Sprint Spectrum L.P. (Sprint), as the underlying Commercial Mobile Radio Service (CMRs) provider, i-wireless will provide Lifeline customers voice grade access to the public switched telephone network (PSTN) with the call having a minimum bandwidth of 300 and 3,000 Megahertz (MHz) per FCC rules.¹⁹

b. Minutes Of Use For Local Service

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers at no additional charge. The FCC has determined that a carrier

¹⁸ The FCC's amended rule 54.101 revises the definition of "Lifeline" to provide support for voice telephony services, and therefore, services previously included as part of the requirements under Section 54.101 are no longer required by the FCC. However, in the interests of Pennsylvania's consumers, provision of certain customer services are relevant to the review of the carrier's request for ETC designation, such as access to operator services, access to interexchange services and directory assistance. We note that i-wireless's service offering provides each of these as follows: i-wireless certifies to provide all of its customers with access to operator services by dialing "411"; i-wireless certifies its service provides customers with the ability to make domestic interexchange, or long distance, telephone call; i-wireless certifies that all its customers are able to reach directory assistance using their handset (Directory Assistance calls are not free and are deducted from the customer's balance); and, as noted above, customer service calls are free.

¹⁹ See Amended Petition at p. 2.

satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.²⁰

i-wireless has submitted evidence that it offers a variety of local usage plans that include a package of minutes with the option to purchase additional minutes or other services.²¹ Additionally, i-wireless' proposed Lifeline offering, as described, also complies with the local usage requirements established by the FCC. Since i-wireless's Lifeline local calling plan offers customers a package of minutes with the option to purchase additional minutes or other services, this meets the local calling requirement of 47 C.F.R. § 54.101. In addition to free voice services, i-wireless will also provide a wireless Lifeline customer with access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services, and enhanced 911 (E911) capabilities. Directory assistance calls made to "1800Free411" will count as airtime minutes of use.

c. Access To Emergency Services

i-wireless certifies that through its underlying wholesale carrier(s), it will provide access to 911 and E911 emergency services for all of its Lifeline customers throughout its entire service area. i-wireless also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.²²

d. Toll Limitation Services

Under the new language of 47 C.F.R. § 54.400, the FCC has defined three terms addressing the service provided by an ETC by which a subscriber may prevent toll charges from accumulation beyond a set point. Specifically, Subsection 54.400(b) of the

²⁰ See e.g., *Farmers Cellular, Inc.*, 18 FCC Rcd 3848, 3852 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, 17 FCC Rcd 9589,9593 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 52 (2000).

²¹ See Second Supplement to the Amended Petition, Exhibit 1 (i-wireless updated offering).

²² See Amended Petition, p.10.

FCC's regulations define "toll blocking" as the service a subscriber may elect to not allow outgoing toll calls. Subsection (c) defines "toll control service" as the service a subscriber may elect to specify a set amount of toll usage allowed per month or per billing cycle. Subsection (d) defines "toll limitation service" as a generic term covering either toll blocking or toll control service for ETCs that are incapable of providing both, or covering both where an ETC is capable of providing both.

i-wireless asserts that it provides services on a prepaid basis, which means that customers pay for their service in advance and can use only the amount of service for which they have already paid. Customers cannot be disconnected for failure to pay telephone toll charges or usage as i-wireless does not differentiate domestic telephone toll usage from local usage and all usage is paid for in advance. Therefore, the nature of i-wireless' service eliminates the concern that low-income customers will incur charges for long distance calls, risking disconnection of their service.

**2. 47 C.F.R. § 54.201
Definition of ETC**

A carrier is eligible under 47 C.F.R. § 54.201 so long as it offers the services set forth in Section 54.101, either through its own facilities or a combination of its own facilities and the resale of another carrier's services, and advertises the availability of the federal universal support services using media of general distribution. The FCC, however, eliminated its former list of nine supported services and amended section 54.101 of its rules to specify that "voice telephony service" is supported by federal universal service support mechanism. In amending section 54.101, the FCC eliminated the following functionalities as supported services: dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to directory assistance; access to interexchange service; and access to operator services,

from the list of supported services.²³ As a result of these amendments, many Lifeline-only ETCs that previously met the facilities requirement by relying on operator services, directory assistance or other previously supported services no longer meet the facilities requirement of the Act.²⁴

Thus, in the *Lifeline Reform Order*, the FCC found that a grant of blanket forbearance of the facilities requirement, subject to certain public safety and compliance obligations, is appropriate for carriers seeking to provide Lifeline-only service.²⁵ Therefore, in the *Lifeline Reform Order*, the FCC conditionally granted forbearance from the Act's facilities requirement to all telecommunications carriers seeking Lifeline-only ETC designation, subject to the following conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements; and (2) Bureau approval of a compliance plan providing specific information regarding the carrier and its service offerings and outlining the measures the carrier will take to implement the obligations contained in the *Lifeline Reform Order*.²⁶

As discussed above, i-wireless will provide access to 911 and E911 services for all of its customers. Additionally, the FCC approved i-wireless' Compliance Plan, which

²³ See *Connect America Fund*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692-93, paras. 77-78, 80 (2011) (*USF/ICC Transformation Order*); *aff'd sub nom.*, *In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014), *certiorari petitions denied NARUC v. FCC*, S.Ct., No. 14-901, *Allband Com. Coop. v. FCC*, S.Ct., No. 14-900, May 4, 2015; *Connect America Fund*, WC Docket No. 10-90 *et al.*, Order on Reconsideration, 26 FCC Rcd 17633, 17634-35, para. 4 (2011) (*USF/ICC Transformation Order on Reconsideration*).

²⁴ See *Lifeline Reform Order*, FCC 12-11, at para. 366, App. A; *USF/ICC Transformation Order on Reconsideration* at para. 4.

²⁵ See *Lifeline Reform Order*, FCC 12-11 at paras. 368-381.

²⁶ See *Id.* at paras. 373 and 389. Subsequently, the FCC's Wireline Competition Bureau provided guidance for carriers submitting compliance plans pursuant to the *Lifeline Reform Order*. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

grants blanket forbearance from the Act's facilities-based requirement contained in Section 214(e)(1)(A).²⁷

Furthermore, i-wireless certifies that it will inform customers of the availability of its Lifeline program through general distribution media which may include print, radio and social network media. i-wireless also intends to promote these offerings to its existing customers who may otherwise qualify for Lifeline.

As a condition of its grant of designation, i-wireless agrees to annually provide the Commission's Bureau of Consumer Services (BCS) copies of all advertising, promotional, and general Lifeline program-related customer notices and communications. i-wireless agrees that it needs to supplement these methods of communication and to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the Commonwealth of Pennsylvania. i-wireless agrees to provide copies of any promotional/advertising materials used in the Commonwealth for review by BCS prior to implementation of an advertising campaign.

**3. 47 C.F.R. § 54.202
Additional Requirements**

i-wireless also meets the additional requirements for ETC designation set forth in 47 C.F.R. § 54.202, as discussed below.

**a. 47 C.F.R § 54.202(a)(1)
Compliance with Service Requirements**

i-wireless certifies that it will comply with the service requirements applicable to the support it receives. Further, it is committed to providing services throughout its proposed designated service area to all customers making a reasonable request for services.

²⁷ See Amended Petition, p. 11, fn. 24 (FCC order approving revised Compliance Plan).

The “five-year plan” requirement set forth in 47 C.F.R. § 54.202(a)(1)(ii) is not applicable to i-wireless’s Petition for ETC designation. As set forth on page 2 of i-wireless’s Amended Petition, it seeks ETC designation in Pennsylvania only for purposes of participation in the USF’s Low Income program. i-wireless does not seek ETC designation to offer services supported by the federal USF high-cost program. Because i-wireless will not offer services supported by the federal high-cost program, the “five-year plan” requirements do not apply to the instant request.

**b. 47 C.F.R. § 54.202(a)(2)
Functionality in Emergency Situations**

An ETC applicant is required to demonstrate its ability to remain functional in emergency situations. In order to satisfy this criterion, an applicant must demonstrate 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.

While i-wireless has received a “blanket” forbearance from the facilities requirement of Section 54.214(e)(1)(A), as an ETC it must ensure that it complies with the requirement set forth in 47 C.F.R. § 54.202(a)(2). i-wireless operates as a reseller of voice telephony services of the underlying carrier, Sprint.²⁸ Sprint is a nationwide, facilities-based provider that is subject to federal and state regulatory requirements with regard to remaining functional in emergency situations. Thus, i-wireless states that it satisfies the functionality standards as Sprint has repeatedly certified to the FCC that its network functions in emergency situations.

Accordingly, i-wireless asserts that, since it is providing service to its customers through the use of facilities obtained from its underlying carrier, this arrangement allows it to provide its customers the same ability to remain functional in emergency situations

²⁸ See Amended Petition, p. 3.

as currently provided by its underlying carrier to its own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

Moreover, pursuant to 47 C.F.R. § 54.422(b)(4), i-wireless must provide to the FCC annual certification that it is “able to function in emergency situations as set forth in § 54.202(a)(2).” i-wireless has committed to comply with this rule in its FCC-approved Compliance Plan.

**c. 47 C.F.R. § 54.202(a)(3)
Customer Service and Service Quality Standards**

A carrier seeking an ETC designation must demonstrate its commitment to meeting consumer protection and service quality standards in its application. The ETC applicant must make a specific commitment to objective measures to protect consumers. The FCC has concluded that a commitment to comply with the CTIA – The Wireless Association’s Consumer Code for Wireless Service, which sets out certain principles, disclosures and practices for the provision of wireless service,²⁹ will satisfy this requirement for a wireless ETC applicant seeking designation.³⁰

i-wireless certifies that it will satisfy applicable consumer protection and service quality standards, as required by 47 C.F.R. § 54.202(a)(3). i-wireless has committed to comply with the above-referenced Consumer Code for Wireless Services. Additionally, i-wireless will cooperate with BCS in resolving any Lifeline-related consumer complaints.³¹

²⁹ http://www.ctia.org/consumer_info/service/index.cfm/AID/10352.

³⁰ *Virginia Cellular ETC Designation Order* at 19 FCC Rcd 1576.

³¹ *See* Amended Petition at 18-19.

**d. 47 C.F.R. § 54.202(a)(4)
Financial and Technical Ability**

Generally, carriers seeking only low income support under Subpart E, 47 C.F.R. §§ 54.400-54.422, must demonstrate they possess the financial and technical ability to provide Lifeline service. i-wireless is seeking Lifeline-only ETC designation and must demonstrate financial and technical ability to provide Lifeline Service and all other services.

In terms of technical ability to deliver quality service, i-wireless has demonstrated its ability to deliver reliable and quality wireless service for retail and Lifeline consumers on a national level since its inception in 2006 utilizing Sprint's national infrastructure.

As noted in its Petition, i-wireless is a North Carolina corporation, founded in 2006 with its headquarters and customer service center in Newport, Kentucky. As a Limited Liability Company, i-wireless' ownership is privately held with 50% ownership held by the Kroger Co. (Kroger), the nation's largest retail grocery chain. i-wireless is a prepaid wireless carrier operating in over 40 states and is the Nation's 3rd largest Lifeline provider, approved to operate in 34 States and the District of Columbia. i-wireless is 50% owned by Genie Global, Inc. and 50% owned by The Kroger Co., and is a fully consolidated variable interest entity of The Kroger Co., as defined by The Sarbanes-Oxley Act. Kroger is a publicly traded company with \$110 Billion in sales and is 17th on Fortune's 500 list.³²

On April 7, 2014, i-wireless supplied certain legal, financial and business plan documents on a confidential basis, accompanied by a Motion for Protective Order. i-wireless stated that because it is a privately held corporation, it does not disclose to the public its financial information, or market position. i-wireless stated that it operates in a

³² As a fully consolidated entity of Kroger, i-wireless' finances are incorporated into the consolidated financial statements of Kroger. For Kroger's most recent SEC 10-K, see <http://ir.kroger.com/doc.aspx?IID=4004136&DID=31921013>.

highly competitive business environment and public disclosure of its financial information would cause substantial harm to the maintenance of its position.

The disaggregated details of i-wireless's financial statements are confidential and entitled to proprietary treatment under our regulations and under the Right to Know Law. *See* 52 Pa. Code § 5.423 and 65 P.S. § 67.102.

The Company asserts that it is a retail provider of wireless service and not financially dependent upon federal USF Low-Income support for its profitability, and is financially capable of providing Lifeline service in accordance with the FCC's rules.³³ At this time, i-wireless' financial condition is acceptable. However, if additional information becomes available that casts doubt on i-wireless' financial integrity, we reserve the right to re-visit our determination in this area.

Finally, i-wireless states that its key management has been with the company since its founding in 2006 and has significant technical and managerial experience providing prepaid wireless services to consumers.³⁴

**e. 47 C.F.R. § 54.202(a)(5)
Terms and Conditions of Lifeline Plans**

Carriers seeking only Low-Income support under Subpart E, 47 C.F.R. §§ 54.400-54.422, must submit the terms and conditions of the plans offered to Lifeline subscribers. i-wireless' petition as amended and supplemented includes the requisite description of the service offerings for Lifeline subscribers. As we described below, we find that i-wireless meets the requirements of 47 C.F.R. § 54.202(a)(5).

³³ *See* Amended Petition at 17.

³⁴ *See* Amended Petition at Exhibit 10 (key management resumes).

i-wireless' lifeline plan offers 250 anytime minutes with monthly rollover of unused minutes. i-wireless' Lifeline subscribers will be eligible to receive the same retail service plans to i-wireless' non-Lifeline customers. i-wireless will also offer Lifeline customers the option of adding additional incremental minutes as detailed above.³⁵

i-wireless will provide its Lifeline customers with a free handset. The free handsets are covered by a limited one-year warranty for defects and malfunctions. The replacement phone is refurbished. A phone which malfunctions will be replaced at no cost. i-wireless will put into its posted Terms of Service, the warranty information described above. When the customer signs up through a live agent, the customer will receive his/her phone number.

i-wireless' Lifeline customers will have access to a variety of standard features explained above at no additional charge. To ensure uninterrupted access to 911 emergency services, Lifeline customers will have access to 911 emergency services regardless of their available minutes. Calls made to 911 emergency services will not count against subscribers' monthly allotments of minutes. Directory Assistance 411, while available, will count as minutes of use.

All of i-wireless' Lifeline service plans are offered on a pre-paid basis. Thus, i-wireless will not issue any paper bills. i-wireless's Lifeline plans will not be charged an activation fee. Additionally, i-wireless certifies that it will not charge Lifeline subscribers an early termination fee, cancellation fees or a monthly number portability charge.³⁶

³⁵ See Second Supplement to the Amended Petition at Exhibit 1.

³⁶ ETCs may not charge Lifeline customers a monthly number-portability charge. See 47 C.F.R. § 54.401(e).

Lifeline-eligible accounts which are inactive for 60 days will be de-enrolled from Lifeline support following a 30-day notice of de-enrollment to the subscriber. *See* 47 C.F.R. § 54.405(e). If i-wireless has a reasonable basis to believe that a Lifeline subscriber is no longer eligible to receive Lifeline service, it will notify that subscriber of impending termination of service utilizing a combination of communication methods including sending text messages and calling the subscriber. The subscriber will then have 30 days to demonstrate otherwise.³⁷

Additionally, i-wireless certifies that if it receives notification from USAC that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service, i-wireless will de-enroll that subscriber in accordance with Section 54.405(e)(2) of the FCC's regulations.³⁸ i-wireless also certifies that it will de-enroll Lifeline customers for non-usage and failure to re-certify their continuous eligibility for Lifeline service in accordance with Section 54.405(e)(3) and (4), respectively, of the FCC's regulations.

Furthermore, i-wireless certifies that it will de-enroll subscribers who have not used their Lifeline service for a period of 60 days. Pursuant to procedures outlined in the FCC's rules, following 60 days of non-usage by a Lifeline subscriber, i-wireless will send a notice to that subscriber stating that failure to use the service within the next 30 days will result in de-enrollment from Lifeline service.³⁹

**f. 47 C.F.R. § 54.202(b)
Public Interest Standard**

This rule requires that the ETC designation be in the "public interest." In determining whether granting i-wireless designation as an ETC is in the public interest, the Commission takes into account the benefits of increased consumer choice when

³⁷ *See* Amended Petition, Exhibit 5, p. 10 (Compliance Plan at 10).

³⁸ *Id.*

³⁹ *See Id.*; § 54.405(e)(3).

conducting its public interest analysis.⁴⁰ In particular, granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high-cost areas.⁴¹ However, the value of increased competition, by itself, may not satisfy the public interest test.⁴²

Additionally, in doing its public interest analysis, the Commission will also consider the particular advantages and disadvantages of an ETC's service offering. For instance, the FCC has examined the benefits of mobility that wireless carriers provide in geographically isolated areas and the potential for rural customers to obtain services comparable to those provided in urban areas, such as voicemail, numeric paging, call forwarding, three-way calling, call waiting, and other vertical features.⁴³ Thus, i-wireless' request for ETC designation must be examined in light of the Act's goals of providing low-income consumers with access to telecommunications services.

i-wireless's designation as an ETC is in the public interest, as required by 47 C.F.R. § 54.202(b). The primary purpose of universal service is to ensure that Consumers – especially low-income consumers – receive affordable and comparable telecommunications services. Designation of i-wireless as an ETC in Pennsylvania will further the public interest by providing Commonwealth consumers, especially low-income consumers, with lower prices and higher quality services, which is a vital economic resource for low-income consumers that leads to improved wage levels and personal safety. Many lower-income customers in Pennsylvania have yet to reap the full benefits of the intensely competitive wireless market. Designating i-wireless as an ETC

⁴⁰ See *Advantage Cellular ETC Designation Order* at para. 18; *Highland Cellular ETC Designation Order*, 19 FCC Rcd at 6424, para. 4; *Virginia Cellular ETC Designation Order*, 19 FCC Rcd at 1565, para. 4.

⁴¹ See *Virginia Cellular ETC Designation Order*, 19 FCC Rcd at 1569, para. 12.

⁴² See *Highland Cellular ETC Designation Order*, 19 FCC Rcd at 6424, para. 4; *Virginia Cellular ETC Designation Order*, 19 FCC Rcd at 1565, para. 4.

⁴³ See generally *USF/ICC Transformation Order*.

in Pennsylvania, therefore, will enable it to expand the availability of affordable telecommunications services to qualifying Pennsylvania consumers.

**g. 47 C.F.R. § 54.202(c)
Tribal Lands**

ETC designation to serve any tribal lands is inapplicable in Pennsylvania, making 47 C.F.R. § 54.202(d) inapplicable to i-wireless' Petition.

**4. 47 C.F.R. § 54.203
ETCs for Unserved Areas**

Because i-wireless' Petition does not involve service to an unserved area, 47 C.F.R. § 54.203 is not applicable.

**5. 47 C.F.R. § 54.205
Relinquishment of Universal Service**

If at some point in the future i-wireless seeks to relinquish its ETC designation, i-wireless agrees to comply with the requirements of 47 C.F.R. § 54.205.

**6. 47 C.F.R. § 54.207
Service Areas**

Because i-wireless does not request redefinition of any rural ILEC study area or grant of forbearance from the FCC in connection with its proposed ETC service area, 47 C.F.R. § 54.207 is not applicable.

B. I-Wireless Must Comply With Requirements For Universal Service Support For Low-Income Consumers

The major goal of the FCC's *Lifeline Reform Order* was to implement procedures designed to preserve the USF resources and prevent waste, fraud and abuse. To that end, the FCC codified rules governing the entire process of Lifeline reimbursement from the

USF. These changes establish defined terms governing the provision of federal USF Low-Income program support and establish parameters governing a carrier's duties and eligibility for such support. Specifically, revised 47 C.F.R § 54.400 establishes relevant terms and definition for provision of Lifeline; 47 C.F.R § 54.401 defines Lifeline as a non-transferrable retail service; 47 C.F.R § 54.403 establishes the Lifeline support amounts for which ETCs may seek from the federal USF; and 47 C.F.R § 54.404 requires the creation of a National Lifeline Accountability Database (NLAD), which intends to provide a national database for ETCs to cross-check subscriber eligibility as a means to eliminate the federal USF support for duplicative or otherwise ineligible subscribers.

Further, the *Lifeline Reform Order* instituted substantial changes which impact consumer qualification for Lifeline, including: 47 C.F.R § 54.409 (Subscriber Eligibility Determination); 47 C.F.R. § 54.410 (Annual Certifications by ETCs); 47 C.F.R. § 54.416 (Record Keeping Requirements); and 47 C.F.R. § 54.417 (Annual Reporting for ETCs that Receive Low-Income Support). These regulations govern the prerequisite duties of an ETC seeking Low-Income program support from the federal USF.

All current and future ETCs must meet the minimum standards set forth in the FCC's *Lifeline Reform Order*, and further when approved by this Commission for ETC designation, must provide BCS with copies of the reports submitted to the Universal Service Administrative Company (USAC) for purposes of High Cost or Low-Income federal USF support. Further, all ETCs, including those currently designated, shall supply BCS with copies of subscriber Lifeline applications and annual certification and promotional materials for review of consistency with eligibility determination criteria and annual certification requirements.

Accordingly, as a condition of receiving ETC designation, to comply with the FCC's *Lifeline Reform Order*, i-wireless is directed to provide BCS for review with copies of any and all reports submitted to USAC, and provide BCS with copies of

subscriber Lifeline applications, annual certifications, and promotional materials. Any failure of i-wireless to comply with these requirements will be a basis for revocation of ETC designation.

**1. 47 C.F.R. § 54.410
Subscriber Eligibility Determination And Certification**

The substantial and extensive requirements for subscriber eligibility⁴⁴ determination and certification requirements at Section 54.410 are the major requirements of the FCC in order to prevent waste, fraud, and abuse. These requirements pertain to consumer eligibility factors and the carrier's obligation for verification of that eligibility. The section further requires that every consumer's eligibility be verified annually. The FCC's further requirements for specific formats and process for accomplishing verification are additional requirements for ETC designation.

This section establishes the carrier's obligation to implement procedures for ensuring each subscriber is in fact eligible for Lifeline support. The initial income-based eligibility determination under this section by either accessing an approved data base, or where no data base is available, by reviewing documentation of income, is prerequisite for a carrier to seek federal USF support. 47 C.F.R. § 54.410(b)(i)(A) and (B). The carrier must further retain documentation of eligibility criteria and provide subscribers with form eligibility certifications which provide notice to the subscribers of the Lifeline plan eligibility rules and require that subscribers provide detailed personal and billing information. 47 C.F.R. § 54.410(c) and (d).

For low-income consumers residing in group facilities or at an address shared by multiple households, the FCC's new "One Per-Household rule" establishes that a "household" is defined as "any individual or group of individuals who are living at the

⁴⁴ Subscribers may be eligible based upon their income, participation in a program such as TANF or SNAP. This section also covers how eligibility is to be certified and re-certified.

same address as one economic unit.” 47 C.F.R. § 54.400(h). Lifeline applicants may demonstrate at the time of enrollment that another Lifeline recipient resides at their address as part of separate household.

Finally, the new Section 54.410(f) provides for an annual recertification process by which a carrier must re-certify each subscriber’s eligibility. We note that the process described in Section 54.410(f) allows for a subscriber to self-certify for annual recertification under Section 54.410(f)(2)(iii). However, Pennsylvania has decided not to follow the FCC with regard to subscriber self-certification. Therefore, we decline to adopt the option for annual self-certification of Section 54.410(f)(2)(iii).

i-wireless agrees it will certify and verify consumer eligibility to participate in the Lifeline program in accordance with applicable FCC and Commission rules.⁴⁵ This includes the FCC’s *Lifeline Reform Order*’s amendment to the rules at Section 54.410 adopting certain minimum eligibility criteria for consumers to receive Lifeline support in addition to new carrier duties for certification of consumer eligibility at initial program enrollment and annually thereafter in accordance with Section 54.410(f).⁴⁶

2. 47 C.F.R. § 54.416 Annual Certifications

i-wireless agrees to annually certify to the USAC that it complies with all applicable eligibility verification requirements and to conduct the required annual certifications of customer Lifeline eligibility at Section 54.410(f) of the FCC’s regulations.⁴⁷

⁴⁵ See Amended Petition at 18-19.

⁴⁶ *Id.*

⁴⁷ *Id.* at 16.

II. I-Wireless Satisfies The Pennsylvania-Specific Requirements For ETC Designation

In addition to the minimum federal standards, through our *ETC Guidelines*, all potential petitioners are on notice that all ETCs should be prepared to comply with Pennsylvania law and Commission orders which govern Pennsylvania's Lifeline and Link-Up programs,⁴⁸ where applicable. 52 Pa. Code § 69.2501(b). The Commission has established Lifeline eligibility criteria, as well as procedures for certification and verification of a consumer's initial and continuing eligibility. *In Re: Lifeline and Link-up Programs*, Docket No. M-0051871 (May 23, 2005) (*PA Lifeline Order*). ETCs are further ordered to report to the Commission annual changes in Pennsylvania Lifeline enrollment. *Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident report, and Services Outage Report*, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (*Tracking Report Order*).

A. 66 Pa. C.S. § 3019(f) Requirements

Section 3019(f) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 3019(f), and the Commission's *PA Lifeline Order*⁴⁹ set forth the minimum requirements for ETCs seeking low income support from the Lifeline Program.⁵⁰ Section 3019(f) includes the following requirements for ETCs:

- (1) All eligible telecommunications carriers certificated to provide local exchange telecommunications service shall provide lifeline service to all eligible telecommunications customers who subscribe to such service.

⁴⁸ Because the FCC's *Lifeline Reform Order* discontinued the Link-Up support from the federal USF, all references to Link-Up programs are now inapplicable.

⁴⁹ *In Re: Lifeline and Link-Up Programs*, at Docket No. M-00051871 (Amended Order entered January 29, 2008).

⁵⁰ We note that effective April 1, 2012, the Link-Up support is no longer available from the federal USF mechanism effectively terminating the carriers' ability to offer that support to Pennsylvania consumers. *Lifeline Reform Order* at p. 107. We further note with approval that i-wireless does not intend to charge consumers a link up activation fee.

(2) All eligible telecommunications customers who subscribe to lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services.

(3) Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

(4) Eligible telecommunications carriers shall inform existing customers of the availability of lifeline services twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the lifeline service subscription requirements.

(5) Eligible telecommunications carriers shall provide the department of public welfare with lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas they serve, for use by the department of public welfare in providing the notifications required by this paragraph.

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new lifeline service discount that is not fully subsidized by the federal universal service fund.

i-wireless certifies that it will comply with each of Section 3019(f)'s requirements.⁵¹ i-wireless will provide its prepaid Lifeline service to all eligible telecommunications customers who wish to subscribe to such service and who reside within i-wireless' service area. The Company will also agree to permit eligible customers to subscribe to any number of its other telecommunications services at the standard rates for such services. i-wireless will establish protocols so that whenever a prospective customer in Pennsylvania seeks to subscribe to i-wireless's service, i-wireless will explicitly advise the customer of the availability of Lifeline service and shall meet federal

⁵¹ See Amended Petition at 18.

requirements to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service. Furthermore, i-wireless will inform existing customers of the availability of Lifeline service twice annually by text or email message, in compliance with Section 3019(f)(4). Finally, i-wireless will provide the Commonwealth's Department of Human Services⁵² (DHS) with its Lifeline service descriptions and subscription forms, contact telephone numbers and a listing of the geographic area or areas it serves for use by the DHS in providing the notification under Section 3019(f)(5).

B. Other Pennsylvania Requirements⁵³

i-wireless also commits to: (1) abide by the applicable requirements set forth in the Commission's *PA Lifeline Order*; (2) abide by the applicable requirements set forth in the Commission's *Tracking Report Order*;⁵⁴ and (3) having consumer Lifeline-related complaints, excluding rates and entry issues, which are unresolved by i-wireless's customer service, handled by BCS.⁵⁵

1. Compliance With PA Lifeline Order Eligibility Certification And Verification

Compliance with all of the provisions of our *PA Lifeline Order* is a condition of i-wireless's ETC designation. In particular, the Lifeline eligibility verification requirements set forth in that order are essential for prevention of waste, fraud and abuse. All ETCs designated by this Commission are required to take the necessary steps to

⁵² Formerly, Department of Public Welfare (DPW).

⁵³ We note that Pennsylvania-specific requirements may be impacted by future Lifeline developments at the federal level. For example, the creation of the National Lifeline Accountability Database at 47 C.F.R. § 54.404, as established, may lead to changes in the Pennsylvania-specific requirements for eligibility verification.

⁵⁴ See *In Re Section 3-15(f) Review Regarding Lifeline Tracking Report, Accident Report and Service Outage Report*, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (*Tracking Report Order*).

⁵⁵ As previously stated in the discussion of the FCC regulation 47 C.F.R. § 54.410, ETCs designated in Pennsylvania must provide the Commission's Bureau of Consumer Services with copies of the reports submitted to USAC for purposes of Low-Income federal USF support, these reports include, among others, those listed in our *PA Lifeline* and *Tracking Report Orders*.

ensure that Lifeline subsidies paid by the USF to the carrier are remitted only for eligible low income consumers.

These requirements include procedures for certification and verification of a customer's initial and continued eligibility for Lifeline services, including obligations that an ETC must attempt to certify a customer's program-based eligibility by referencing DHS's database. In addition, we have by this order adopted the FCC requirement for annual recertification for each lifeline subscriber, which is a requirement that we also adopted in the *PA Lifeline Order*.

Regarding a customer's initial eligibility, our *PA Lifeline Order* specifically found that:

[T]he companies ought to use the DHS's database first to establish if there is acceptable social assistance program participation. If the household⁵⁶ qualifies, then no further investigation or verification need be done. The household qualifies based on program participation⁵⁷ or income verification. If the household does not appear to be enrolled in one of the approved social assistance programs, then 135% FPG [Federal Poverty Income Guidelines] income or less may be verified through either copies of written state or federal income tax returns for the prior year, or the carrier may contact [the Pennsylvania Department of Revenue (DOR)] . . . and pay the nominal fee to have the customer's household's income verified. We agree . . . that self-certification without some form of reasonable independent verification is suspect for fraudulent abuse and will not be acceptable in Pennsylvania as a means for qualifying for our Lifeline . . . programs.

PA Lifeline Order at p. 10.

As we indicated, an ETC designee must independently certify an applicant's eligibility for Lifeline service through a variety of ways. Independent ETC designee

⁵⁶ As the term "household" is now defined under FCC regulations at 47 C.F.R. § 54.400(h).

⁵⁷ The FCC has specifically set forth a list of federally qualifying assistance programs at 47 C.F.R. § 54.400(j). We expressly adopt the expanded list of qualifying assistance programs.

certification of an applicant's eligibility for Lifeline service is accomplished through DHS in those instances where the applicant seeks support based on participation in a qualified low income program that is administered by DHS. Independent certification of an applicant's income eligibility⁵⁸ is accomplished by an ETC designee through examination of an applicant's submitted tax returns or other acceptable documentation of income or through the DOR in those instances where the applicant seeks support based solely on income without supporting documentation.

Of necessity, if eligibility is based on income only, the applicant must provide an acceptable form of documentation of income, proving eligible income levels to the ETC designee, or the ETC designee may independently verify eligible income levels through the Pennsylvania DOR. While an ETC designee may propose for the Commission's consideration more effective ways to comply with our mandate that a carrier independently verify an applicant's eligibility, we reiterate that at no time may an applicant's eligibility and verification be based solely upon customer self-certification.

By our *PA Lifeline Order* we also required eligibility be confirmed annually and required:

That LECs offering Lifeline . . . services are directed to recertify their Lifeline . . . customers at least annually in accordance with FCC procedures established at 47 C.F.R. § 54.410 (relating to certification and verification of consumer qualifications for Lifeline)”

Id. at p. 27.

However, Pennsylvania's annual recertification requirements exceed those of the FCC regulations. Where the FCC allows for subscriber self-certification, Pennsylvania requirements do not allow for self-certification by individual customers as part of the annual certification process. Therefore, the FCC's regulation at 47 C.F.R. § 410(f)(2)(iii)

⁵⁸ Pennsylvania's income eligibility criteria is consistent with new FCC regulations at 47 C.F.R. § 54.410(b).

is inapplicable in Pennsylvania. i-wireless is directed, as a condition of receiving ETC designation, to comply with the *PA Lifeline Order* and the eligibility verification requirements. Any failure of i-wireless to comply with these requirements will be a basis for revocation of its ETC designation.

2. Compliance With The *Tracking Report Order*

As a condition of ETC designation, ETCs are required to report to the Commission annual changes in Lifeline enrollment, per our *Tracking Report Order*. i-wireless will fully comply with the Commission's annual Lifeline Tracking Report requirement.

Further, in order to ensure the Pennsylvania Lifeline program advances the Commonwealth's universal service policy, i-wireless and all wireless ETCs designated by this Commission shall be required to provide to BCS a copy of its annual Lifeline Verification Survey results that it files with USAC by August 31 of each year, as well as the FCC Form 497, Lifeline and Link-Up Worksheet or its equivalent⁵⁹ (detailing federal USF support per subscriber), filed with USAC quarterly the third Monday of April, July, October and January. Wireless carriers offering Lifeline present unique compliance and monitoring concerns. The additional forms will assist BCS in its duties to monitor Lifeline Program effectiveness in Pennsylvania.⁶⁰

3. Consumer Lifeline-Related Complaints Processed By The Bureau Of Consumer Services⁶¹

As a final condition of designation, i-wireless agrees to work with BCS to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed with the Commission by i-wireless's Lifeline customers, on Lifeline-related issues. BCS

⁵⁹ The FCC has eliminated the Link-Up program.

⁶⁰ These reporting requirements are consistent with both the Pennsylvania and federal statutory mandates governing this Commission's jurisdiction and continuous oversight over ETC designations for both wireless and landline telecommunications carriers.

⁶¹ See Supplement to the Petition at 4-5.

will not address matters related to rates and market entry. Specifically, BCS will address Lifeline-related issues which pertain to the consumers rights under the plan, including: (1) eligibility disputes; (2) program offering issues; and (3) limited equipment-related issues.

i-wireless will provide notice to consumers in its Pennsylvania promotional materials as well as Pennsylvania-specific information on its web page of their right to contact BCS and the PUC's contact information, if complaints brought to i-wireless's customer service division are not resolved.

Adherence to these Pennsylvania-specific requirements applicable to ETCs designated by the Commission will assure uniformity among Lifeline services offered by different ETCs, will provide consumer protection for low income consumers and will enable BCS to monitor Lifeline Program effectiveness in Pennsylvania.

4. Change In Corporate Control And Renewed ETC Designation

In the event of a change in corporate control, as defined in the Commission's regulations at 52 Pa. Code § 63.322, i-wireless will have to petition this Commission for a renewal of its ETC designation status. Corporate changes of control may also be accompanied with changes in ETC status of a particular telecommunications entity with reference to the various and evolving support mechanisms of the federal USF. In this respect, this Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue to be availed of its previously granted ETC status designation or whether such status and/or applicable conditions should be altered. i-wireless has agreed to comply with this directive.⁶²

⁶² See Amended Petition at 18-19.

5. Provision of ETC Application, Annual Certification and Promotional Materials To The Bureau Of Consumer Services

Finally, all ETCs, including those currently designated, shall supply the Commission's BCS with copies of subscriber Lifeline applications and annual certification and promotional materials for review for consistency with eligibility determination criteria and annual certification requirements as well as plain language requirements. i-wireless has agreed to comply with this directive.⁶³

6. Change In Lifeline Service Or Equipment

ETC status is granted to i-wireless based upon the services and equipment described herein. Should the Company wish to alter its services or equipment, i-wireless shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering. Moreover, i-wireless shall petition this Commission for prior approval of any future change to the basic Lifeline offering that represents a limitation or reduction of Lifeline services/equipment now approved. This includes an imposition of any activation fee.

CONCLUSION

We expect all current and future ETCs designated by this Commission to meet the minimum standards set forth in the FCC's *Lifeline Reform Order* and the related regulations. Further, we expect all current and future ETCs designated by this Commission to provide BCS with copies of subscriber Lifeline applications and annual certification and promotional materials for review of consistency with eligibility determination criteria and annual certification requirements.

As discussed above, i-wireless certifies it will satisfy all of the requirements for limited ETC designation as required by the Commission's *ETC Guidelines*. Designation of i-wireless as an ETC in the Commonwealth of Pennsylvania is in accord with Section

⁶³ See Amended Petition at 18-19.

214 of the Act, the FCC's regulations and orders related to ETC designation, Section 3019(f) of the Public Utility Code, and the Commission's orders on ETC designation. 47 U.S.C. § 214; 47 C.F.R. §§ 54.201, *et seq.*; and 66 Pa. C.S. § 3019(f). In consideration of i-wireless's Petition for ETC designation, as initially filed, amended and supplemented and the comments thereto, we conclude that designation of i-wireless as an ETC in the Commonwealth of Pennsylvania is in the public interest, and;

THEREFORE,

IT IS ORDERED:

1. The Petition of i-wireless, LLC, for Limited Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service in the Commonwealth of Pennsylvania is granted, subject to the terms and conditions set forth in this order.
2. That the Commission grants i-wireless, LLC, Eligible Telecommunications Carrier designation in the geographic service areas where its underlying carrier, Sprint Spectrum L.P., provides coverage in Pennsylvania. This service area also overlaps the service areas of rural incumbent local exchange carriers.
3. That the failure of i-wireless, LLC, to comply with any of the provisions of this Opinion and Order may result in revocation of the ETC designation for purposes of Universal Service Fund Lifeline support.
4. That i-wireless, LLC, shall petition this Commission for any future change to the basic Lifeline service offering described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge, and shall provide notice

to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.

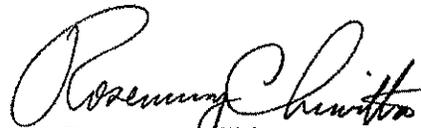
5. That i-wireless, LLC, shall petition this Commission for renewal of its Eligible Telecommunications Carrier status in the event of a change in corporate control as defined at 52 Pa. Code § 63.322.

6. That i-wireless, LLC, shall petition this Commission for renewal or recertification of its Eligible Telecommunications Carrier status in the event it seeks territory or authority beyond the scope of this Order.

7. That the Secretary shall serve a copy of this Order on all parties, on the Office of Consumer Advocate, and the Office of Small Business Advocate.

8. That this docket be marked closed.

BY THE COMMISSION


Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: September 3, 2015

ORDER ENTERED: September 3, 2015