



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ORLENE HAWKS
DIRECTOR

NORMAN J. SAARI
COMMISSIONER

SALLY A. TALBERG
CHAIRMAN

DANIEL C. SCRIPPS
COMMISSIONER

March 21, 2019

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Mr. Victor Gaither
Vice President, High Cost and Low Income Div.
Universal Service Administration Company
700 12th St. NW, Suite 900
Washington, DC 20005

Re: Mercury Wireless Indiana, LLC Certification of census blocks for Universal Service Support, Pursuant to Section 214(e)(2) of the Federal Communications Act of 1996, Federal Communications Commission CC Docket No. 96-45, CC Docket No. 09-197, WC Docket No. 10-90

Dear Ms. Dortch and Mr. Gaither:

Pursuant to the requirements of 47 C.F.R. § 54.201, the Michigan Public Service Commission (MPSC) hereby certifies to the Federal Communications Commission (FCC) and the Universal Administrative Company (USAC) that Mercury Wireless Indiana, LLC (Mercury Wireless) has met the current standards for state Eligible Telecommunications Carrier (ETC) designation, for the purposes of receiving universal service fund support for both High-Cost and Lifeline in the areas listed in Exhibit A-5 of their application.

Attached is the MPSC Order approving the application of Mercury Wireless in case U-20333, as well as the service area page.

Sincerely,

Robin P. Ancona, Director
Telecommunications Division

Attachments

- Mercury Wireless ETC Order (U-20333)
- Service Area – Exhibit A-5

Cc: Jessica Zufolo, USAC (electronically)
Habib Simab, USAC (electronically)
Debby Smith, USAC (electronically)
Matt Loughheed, USAC (electronically)

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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* * * * *

In the matter of the application of)
MERCURY WIRELESS INDIANA, LLC,)
for designation as an eligible telecommunications)
carrier for purposes of Connect America Fund)
Phase II support.)
_____)

Case No. U-20333

At the March 21, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Daniel C. Scripps, Commissioner

ORDER

On September 28, 2018, Mercury Wireless Indiana, LLC (Mercury Wireless) filed an application pursuant to Section 214(e)(2) of the federal Communications Act of 1934, 47 USC 214(e)(2), for designation as an eligible telecommunications carrier (ETC) for access to universal service fund (USF) support for the purpose of expanding and enhancing its rural broadband network and providing Lifeline service to low-income customers in Michigan. Mercury Wireless filed an amended application and related exhibits on January 18, 2019 (January 18 application). Mercury requests that the Commission enter an order designating it as a High-Cost and Lifeline ETC throughout the census blocks listed in Exhibit A-5 of the January 18 application. These census blocks represent the areas for which Mercury Wireless was assigned the winning bid in the

Connect America Fund Phase II (CAF II) Auction. Mercury Wireless does not seek designation in any Tribal areas.

On July 10, 2018, the Federal Communications Commission's (FCC) Wireline Competition Bureau released Public Notice DA 18-714,¹ in which it outlines various key service requirements of obtaining and maintaining an ETC designation, specifically for all CAF II Auction applicants. Among these requirements are: (1) ETCs must offer voice telephony as a stand-alone service; (2) ETCs must offer qualifying voice service using, at least in part, their own facilities; and (3) an ETC satisfies its obligation to offer qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting USF-related requirements.

On August 28, 2018, the FCC announced the winning bidders of the CAF II Auction. Mercury Wireless was awarded several census blocks in the state of Michigan. The auction winners are required to use money awarded in the auction to expand broadband and meet various broadband goals throughout the census blocks; and the award is contingent upon Mercury Wireless's designation as an ETC in the census blocks it received, as well as meeting and adhering to all ETC requirements.²

Mercury Wireless states that it will be offering stand-alone voice via interconnected Voice over Internet Protocol (VoIP) services. Mercury Wireless will be providing interconnected VoIP service on a common carrier basis, and therefore Mercury Wireless considers itself a common carrier and telecommunications carrier regarding the VoIP services it will be providing. In the March 21, 2019 order in Case No. U-20445, Mercury Wireless is concurrently being granted a

¹ <https://docs.fcc.gov/public/attachments/DA-18-714A1.pdf>

² *Id.*

permanent license to provide basic local exchange service throughout its service area in the state of Michigan.

Mercury Wireless states that it plans to provide high-speed, fixed wireless internet and voice service through interconnected VoIP, using facilities that it owns or leases. Mercury Wireless will utilize its own facilities to provide last mile connections to subscribers (including interconnected VoIP subscribers) using fixed wireless, via LTE, WiMAX, or unlicensed radio technologies and will provide backhaul for interconnection between sites using a combination of fiber and microwave backhauls. Mercury Wireless will not be reselling switched telecommunications. Mercury Wireless will be using a VoIP wholesaler, VoIP Innovations, for termination and origination of interconnected VoIP calls.

Mercury Wireless states that it will satisfy applicable consumer protection and service quality standards. Mercury Wireless states that it will be responsible, managerially and legally, for handling and responding to customer issues. Mercury Wireless indicates that it will have sufficient back-up power to remain functional without an external power source in emergency situations, will be able to reroute traffic around damaged facilities, and will be able to manage traffic spikes resulting from emergency situations. Additionally, it will be providing quality of service guarantees for customers.

Mercury Wireless intends to utilize federal High-Cost support it receives to roll out new facilities and expand its provision of high-speed, high quality Internet and voice services to new customers and anchor institutions in underserved, rural communities in Michigan. Mercury Wireless plans to offer broadband service in its ETC designated service area that meets the FCC's minimum broadband speed requirements. Additionally, Mercury Wireless also states in its application that it satisfies the eligibility requirements for ETC designation by offering services

that are supported by the federal universal service support mechanism by using either its own facilities or a combination of its own facilities and resale of another carrier's services, and will advertise the availability of such services using media of general distribution. Mercury Wireless further states that among the services that will be offered, Mercury Wireless will be providing voice grade access to the public switched telephone network (via interconnected VoIP) and access to emergency services via 911 or E911, to the extent the local governments in its service area have implemented 911 and E911.

The Commission notes that the FCC has held that an ETC may satisfy voice obligations through VoIP technology if it meets the functional requirements specified in the rules and the service is provided on a common carrier basis.³ The FCC has stated that "We recognize that we have not generally classified VoIP as a telecommunications service or information service, but we nonetheless have recognized that providers might elect to offer interconnected VoIP as a telecommunications service."⁴ The FCC has also recognized that an interconnected VoIP provider can obtain access to the rights available to a telecommunications carrier if it "holds itself out as a telecommunications carrier and complies with appropriate federal and state requirements."⁵

Mercury Wireless does not have the facilities or network infrastructure typical of most providers of basic local exchange service. Due to Mercury Wireless's unique situation, the

³ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, Order No. FCC 11-161, ¶¶ 62-71, *rel'd* November 18, 2011 (*USF/ICC Transformation Order*).

⁴ *Lifeline & Link Up Reform & Modernization et al.*, WC Docket No. 11-42 *et al.*, Third Report and Order, Order No. FCC 16-38, note 709, *rel'd* April 27, 2016.

⁵ *IP-Enabled Services; E911 Requirements For IP-Enabled Service Providers et al.*, WC Docket No. 04-36 *et al.*, First Report and Order and Notice of Proposed Rulemaking, Order No. FCC 05-116, note 128, *rel'd* June 3, 2005.

Commission's Telecommunications Division Staff (Staff) found it necessary to submit questions to Mercury Wireless regarding details of the application, service, and facilities. These inquiries resulted in the filing of the amended application. The Staff also consulted with FCC staff regarding this type of ETC application. FCC staff confirmed that a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor. The Staff recommends that the January 18 application be approved.

After reviewing Mercury Wireless's application, the Commission finds that the ETC designation, limited to High-Cost and Lifeline voice support exclusively throughout the census block areas listed in Exhibit A-5 of the January 18 application should be conditionally granted. The Commission is persuaded that ETC designation for Mercury Wireless promotes the availability of universal service and is in the public interest. The Commission finds that the application as amended demonstrates that Mercury Wireless meets the requirements for designation as an ETC. *See*, 47 USC 214(e)(1). The January 18 application for ETC designation is granted on condition that Mercury Wireless: (1) comply with the service requirements contained in the FCC's *USF/ICC Transformation Order* and subsequent related federal and state rulings, the FCC's *Lifeline Reform Order*,⁶ and the Commission's December 20, 2012 and January 17, 2013 orders in Case Nos. U-14535 and U-16959; (2) advertise its Lifeline product in media of general distribution including newspaper, radio, its own website, and other direct advertising methods; and (3) include the Commission's customer complaint telephone number on its public web page.

⁶ *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, Order No. FCC 12-11, *rel'd* February 6, 2012 (*Lifeline Reform Order*).

PROOF OF SERVICE

STATE OF MICHIGAN)

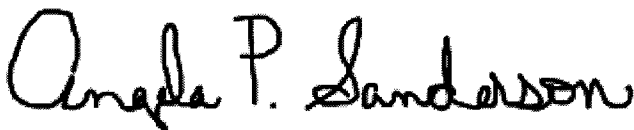
Case No. U-20333

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on March 21, 2019 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 21st day of March 2019.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Mercury Wireless will be required to re-certify in July 2019 in Case No. U-20357 in accordance with FCC requirements, and annually thereafter, to retain its ETC designation.

THEREFORE, IT IS ORDERED that the January 18, 2019 application filed by Mercury Wireless Indiana, LLC, for designation as an eligible telecommunications carrier for purposes of universal service fund support for both High-Cost and Lifeline in the areas listed in Exhibit A-5 of that application is approved subject to the conditions specified in this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party aggrieved by this order may file an action in the appropriate federal District Court pursuant to 28 USC 1331. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedocket@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

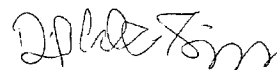
MICHIGAN PUBLIC SERVICE COMMISSION



Sally A. Talberg, Chairman



Norman J. Saari, Commissioner



Daniel C. Scripps, Commissioner

By its action of March 21, 2019.



Kavita Kale, Executive Secretary

Service List for Case: U-20333

Name

Email Address

Mercury Wireless Indiana LLC
Michael S. Ashton

matthew.sams@mercurywireless.com
mashton@fraserlawfirm.com

Received & Inspected
APR 1 - 2014
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MERCURY WIRELESS

Exhibit A-5

Award Census Blocks

Exhibit – Provisionally Awarded Census Block Summary – Michigan

bidder	frn	block_id	item	state	county	census_id
Mercury Wireless	18603027	260210008002045	MI-021-0008002	MI	Berrien	260210008002
Mercury Wireless	18603027	260210014002024	MI-021-0014002	MI	Berrien	260210014002
Mercury Wireless	18603027	260210019002002	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002023	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002024	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002025	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002032	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002034	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002037	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002041	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210019002045	MI-021-0019002	MI	Berrien	260210019002
Mercury Wireless	18603027	260210022002030	MI-021-0022002	MI	Berrien	260210022002
Mercury Wireless	18603027	260210024001001	MI-021-0024001	MI	Berrien	260210024001
Mercury Wireless	18603027	260210024001015	MI-021-0024001	MI	Berrien	260210024001
Mercury Wireless	18603027	260210024002045	MI-021-0024002	MI	Berrien	260210024002
Mercury Wireless	18603027	260210024002060	MI-021-0024002	MI	Berrien	260210024002
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Mercury Wireless	18603027	260210105002017	MI-021-0105002	MI	Berrien	260210105002
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