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June 12, 2015

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street
Washington, D.C. 20554

Re: Excess Telecom, Inc.
Petition for Designation as an Eligible Telecommunications Carrier
WC Docket No. 09-197

Dear Ms. Dortch:

Attached please find Excess Telecom, Inc.'s Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, and the District of Columbia.

If you have any questions or if I may provide you with additional information, please do not hesitate to contact me. Thank you for your assistance.

Respectfully submitted,

/s/ Lance Steinhart

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
Attorneys for Excess Telecom, Inc.

Enclosures

cc: Cobby Pourtavosi

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Federal-State Joint Board on Universal Service) WC Docket No. 09-197
)
Excess Telecom, Inc.)
)
Petition for Limited Designation as an Eligible)
Telecommunications Carrier in the States of)
Alabama, Connecticut, Delaware, Florida,)
Maine, New Hampshire, North Carolina, New)
York, Tennessee, Texas, the Commonwealth)
of Virginia, and the District of Columbia)

**PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE STATES OF ALABAMA,
CONNECTICUT, DELAWARE, FLORIDA, MAINE, NEW HAMPSHIRE, NORTH
CAROLINA, NEW YORK, TENNESSEE, TEXAS, THE COMMONWEALTH OF
VIRGINIA, AND THE DISTRICT OF COLUMBIA**

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SUMMARY

Excess Telecom, Inc. (“Excess Telecom”) is seeking limited designation as an Eligible Telecommunications Carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”) pursuant to Section 214(e)(6) of the Communications Act, solely for purposes of offering services supported by the Universal Service Fund’s (“USF”) Lifeline program. Excess Telecom is a Mobile Virtual Network Operator (“MVNO”) that resells the wireless network services of Sprint PCS, Verizon Wireless and T-Mobile. Each Non-Jurisdictional State has provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designation. Accordingly, pursuant to Section 214(e)(6), the Commission has the authority to designate Excess Telecom as an ETC in the Non-Jurisdictional States.

Excess Telecom meets all of the requirements under Section 214(e)(1) for the limited ETC designation requested herein except for providing service, at least in part, using its own facilities. However, the Commission granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation in its Lifeline and Link-Up Reform Order released February 6, 2012.¹ Through its contracts with underlying carriers, whether direct or through third party agreements with Mobile Virtual Network Enablers (“MVNE”), Excess Telecom has the ability to offer all of the services and functionalities supported by the USF and set forth in Section 54.101(a) of the Commission’s rules. Excess

¹ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”).

Telecom therefore respectfully requests that the Commission promptly approve the instant request for limited ETC designation to enable the Excess Telecom to rapidly provide Lifeline services to qualifying customers in the Non-Jurisdictional States.

Designating Excess Telecom as an ETC in the Non-Jurisdictional States will promote the public interest by providing qualifying low-income customers in the Non-Jurisdictional States with lower prices and high-quality wireless services. Many low-income customers in the Non-Jurisdictional States have yet to reap the well-documented benefits of wireless service because of financial constraints, poor credit history, or intermittent employment. Excess Telecom's prepaid service offerings are ideally suited to provide these customers with reliable and cost-effective wireless services. As an ETC, Excess Telecom will be able to provide discounted and affordable services to these consumers who are among the intended beneficiaries of USF support. Excess Telecom's designation will specifically serve the public interest because of the aggressive pricing plans that Excess Telecom will provide (see Attachment A), because of the Company's unique distribution channels in low-income neighborhoods that will, if utilized, permit customers to obtain service, phones, and refill minutes without traveling outside their neighborhoods or using a computer, and because of the Company's unique experience with subsidized housing which provides the Company direct access to thousands of low-income consumers that likely qualify for Lifeline service.

ETC designation for Lifeline service is consistent with precedent and will serve the public interest, and should be granted without delay.

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Telecommunications Carrier in the States of)	
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York, Tennessee, Texas, the Commonwealth)	
of Virginia, and the District of Columbia)	

**PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE STATES OF ALABAMA,
CONNECTICUT, DELAWARE, FLORIDA, MAINE, NEW HAMPSHIRE, NORTH
CAROLINA, NEW YORK, TENNESSEE, TEXAS, THE COMMONWEALTH OF
VIRGINIA, AND THE DISTRICT OF COLUMBIA**

I. INTRODUCTION

Excess Telecom, Inc. (“Excess Telecom” or “the Company”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”), and Section 54.201 of the rules of the Federal Communications Commission (“FCC” or “Commission”), hereby requests limited designation as an eligible telecommunications carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”). Excess Telecom seeks ETC designation in the Non-Jurisdictional States only for purposes of participation in the Universal Service Fund’s (“USF”) Lifeline program and does *not* seek to participate in the Link-Up or the High-Cost support programs.

Since the Alabama Public Service Commission, the Connecticut Department of Public Utility Control, the Delaware Public Service Commission, the District of Columbia Public Service Commission, the Florida Public Service Commission, the Maine Public Utilities Commission, the New Hampshire Public Utilities Commission, the North Carolina Utilities Commission, the New York Public Service Commission, the Tennessee Regulatory Authority, the Texas Public Utility Commission, and the Virginia State Corporation Commission (collectively, the “State Commissions”) lack jurisdiction to designate Excess Telecom as an ETC, the Commission, under Section 214(e)(6) of the Act, has the authority to consider and grant this request.² As more fully described below, Excess Telecom satisfies the requirements for designation as an ETC in the Non-Jurisdictional States, including the new requirements outlined in the FCC’s *USF/ICC Transformation Order*³ and *Lifeline and Link Up Reform Order*,⁴ and will offer all of the services and functionalities supported by the universal service program throughout its designated service areas in the Non-Jurisdictional States. Grant of Excess Telecom’s request, therefore, will promote the public interest by providing customers in the Non-Jurisdictional States with low prices and high quality wireless services through innovative distribution channels.

² See 47 U.S.C. § 214(e)(6).

³ *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 Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

⁴ See *supra* note 1.

II. BACKGROUND

A. Company Overview

Excess Telecom is a California corporation. Excess Telecom is privately owned and operated, and does not have a holding company or operating company. The principals of Excess Telecom also own and operate Capital Insight, LLC (“Capital Insight”), an established and successful company with substantial capital and experience in real estate asset management and seeding successful Startups. Under Capital Insight, the principals of Excess Telecom own and control over \$300 million in real estate assets, including Section 8 and Single Room Occupancy (SRO) Program housing.

Excess Telecom has a multi-faceted business model so that, while Lifeline will be an important focus to the Company, it will not be the only source of revenue. Excess Telecom believes that the provision of Lifeline service will be a natural complement to the Company’s existing experience with government-subsidized housing, which is explained in more detail herein. Excess Telecom will provide prepaid wireless telecommunications services to consumers by using the network of its underlying carrier(s). The Company has obtained or is currently in the process of obtaining agreements with nationwide carriers that provide wholesale capacity on their wireless networks to resellers like Excess Telecom, in order to access the network infrastructure and transmission facilities to allow Excess Telecom to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone and Virgin Mobile, both of whom have been granted ETC status by the Commission.⁵ Excess Telecom will resell the network services of Sprint PCS (“Sprint”)

⁵ *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and Washington D.C.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (“*TracFone ETC Order*”); *Petition* (continued on next page)

through its existing direct agreement with Sprint, and will resell the network services of Verizon Wireless and T-Mobile through a third party agreement with an MVNE . Excess Telecom will purchase services on a wholesale basis for mobile calling and text messaging, package those services into Excess Telecom’s own service plans and pricing, and bundle those services with Excess Telecom’s handset selection, mobile applications, marketing materials, web interface, and customer service, to produce finished wireless service offerings to sell to end-user customers.

Affordable and easy to use prepaid wireless services are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, Excess Telecom will expand the availability of wireless services to many more low-income consumers, which is one of the principal objectives of Congress’ universal service program as codified in Section 254 of the Act, 47 U.S.C. § 254.

Excess Telecom will offer consumers simple and affordable prepaid calling plans, easy-to-use handsets, and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs’ customers, Excess Telecom anticipates that many of its customers will be from low-income backgrounds and will not have previously enjoyed access to

of Virgin Mobile USA, L.P. for Forbearance from 47 U.C.S. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (“*Virgin Mobile Order*”). The Commission had previously granted TracFone forbearance from the facilities requirement for ETC designation, permitting TracFone to offer the supported services via resale only. *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (“*TracFone Forbearance Order*”). The *Virgin Mobile Order* contained both the forbearance analysis and ETC designation.

wireless service because of economic constraints, poor credit history, or sporadic employment. Excess Telecom does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. Excess Telecom allows customers to choose a prepaid plan in which they are charged only for the minutes they use.

B. Lifeline Program

Universal service has been a fundamental component of U.S. telecommunications policy since the adoption of the Act over 70 years ago. Section 254 of the Act codified that commitment in 1996, and embodies the Commission's historical commitment to the concept of universal service, including for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers, have access to telecommunications services at affordable and reasonably comparable rates.⁶ As part of those universal service support programs, Lifeline support helps defray the monthly costs of telecommunications services for low-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.⁷

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted telephone subscription among low-income consumers as

⁶ See 47 U.S.C. § 254. Section 254(b)(3) of the Act requires the Commission to determine whether "consumers in all regions of the Nation, *including low-income consumers* and those in rural, insular, and high cost areas . . . have access to telecommunications [services]." 47 U.S.C. § 254(b)(3) (emphasis added).

⁷ 47 C.F.R. §§ 54.400 and 54.401.

one area for improvement.⁸ To increase awareness of the program, the Commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation because “[w]hen consumers are able to only intermittently remain on the network, they are not fully connected to society and the economy The Commission has found that the low-income program ‘provide[s] the best source of assistance for individuals to obtain and retain universal service, and, therefore, help maintain and improve telephone subscribership’ and fulfill our obligations under Section 254 of the Act.”⁹

C. Proposed Lifeline Offering

Excess Telecom intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage. Attached hereto as Attachment A is a table of the Company’s Lifeline rate plans, showing that Excess Telecom will provide customers with 275 voice minutes at no charge as well as 275 included text messages that will not deduct from available voice minutes.¹⁰ Excess Telecom’s Lifeline offering will also include a free handset; nationwide coverage; and access to voice mail, call waiting, and caller I.D. features at no additional charge. There is no additional charge for toll calls. Calls to 911 emergency services, and calls to Excess Telecom’s customer service by dialing 611, are free and will not be deducted from available minutes. Additional minutes will be available for purchase in

⁸ See *Lifeline and Link Up Reform Order* at ¶¶ 27-30; See also *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 ¶ 1 (2004) (“*Lifeline Order*”).

⁹ See *Lifeline and Link-Up Reform Order* at ¶ 16.

¹⁰ Excess Telecom reserves the right to alter the proposed Lifeline rate plans on a state-by-state basis, particularly as required by state public utility commissions (PUC). The Company commits to pass through the entire Lifeline subsidy amount directly to the consumer.

competitive denominations at the rate of \$0.05 per minute or less. Excess Telecom also intends to develop a broadband component to its Lifeline offerings in the near future.

III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION

Pursuant to Section 214(e)(6), the Commission may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.”¹¹ The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before it may consider an application for ETC designation.¹² The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.”¹³

None of the states for which Excess Telecom requests ETC designation from the FCC has the jurisdiction to designate the Company as an ETC:

a) The Alabama Public Service Commission has concluded that it “has no jurisdiction to take action” on ETC petitions, and that “wireless providers seeking ETC status should pursue their ETC designation request with the FCC.” A copy of the Alabama Public Service Commission’s order is attached as Attachment B.

¹¹ See 47 U.S.C. § 214(e)(6).

¹² See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

¹³ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

b) The Connecticut Department of Public Utility Control has provided letters clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. A sample letter is attached as Attachment C.

c) The Delaware Public Service Commission has provided letters clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. A sample letter is attached as Attachment D.

d) The District of Columbia Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. The letter is attached as Attachment E.

e) The Florida Public Service Commission has provided letters clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. A sample letter is attached as Attachment F.

f) The Maine Public Utilities Commission has concluded that "the Commission will no longer certify carriers that apply for ETC designation for the sole purpose of offering Lifeline, Link-Up, or other low-income program benefits. Going forward, such carriers will apply to the [FCC] for ETC designation." A copy of the Maine Public Utilities Commission's Order is attached as Attachment G.

g) The New Hampshire Public Utilities Commission has provided a letter clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. The letter is attached as Attachment H.

h) The New York Public Service Commission has provided letters clarifying that it lacks jurisdiction to entertain a wireless carrier's ETC petition. A sample letter is attached as Attachment I.

i) The North Carolina Utilities Commission has concluded that “the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC.” A copy of the North Carolina Utilities Commission’s Order is attached as Attachment J.

j) The Tennessee Regulatory Authority has concluded that its statutory “lack of jurisdiction over CMRS providers” precludes it from processing ETC petitions. A copy of the Tennessee Regulatory Authority’s order is attached as Attachment K.

k) The Texas Public Utility Commission adopted an amendment to “exclude commercial mobile radio service (CMRS) resellers from eligibility for designation by the commission as an eligible telecommunications carrier (ETC).” And instead, “a CMRS reseller will be able to seek designation as an ETC by the Federal Communications Commission (FCC).” A copy of the Texas Public Utility Commission’s Order is attached as Attachment L.

l) The Virginia Corporation Commission has concluded that “§ 214(e)6) of the Act is applicable” to wireless ETC petitions “because [the Virginia Commission] has not asserted jurisdiction over CMRS carriers,” and that wireless ETC applicants “should apply to the Federal Communications Commission.” A copy of the Virginia Commission’s Order is attached as Attachment M.

Accordingly, for each of the Non-Jurisdiction States, Excess Telecom is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”¹⁴ As such, the Commission is authorized to designate Excess Telecom as an Eligible Telecommunications Carrier.

¹⁴ 47 U.S.C. § 214(e)(6).

IV. EXCESS TELECOM REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM

A. Excess Telecom Requests ETC Designation in its Existing Service Area

Consistent with prior orders granting other MVNOs ETC status,¹⁵ Excess Telecom requests ETC designation for its entire service area in Alabama, Connecticut, Delaware, District of Columbia, Florida, Maine, New Hampshire, North Carolina, New York, Tennessee, Texas, and Virginia (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service), but excluding any Tribal Areas.¹⁶ Excess Telecom understands that its service area overlaps with several rural carriers' service areas but maintains that the public interest factors described below justify its designation in these service areas, especially since it only seeks ETC designation for purposes of participation in the Lifeline program.

B. Excess Telecom's Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program

Consistent with the scope of forbearance granted by the Commission, Excess Telecom requests ETC designation in the Non-Jurisdictional States for the sole purpose of participating in the Lifeline program. Excess Telecom does not seek eligibility to receive support from the Link-Up program or High Cost support program. As demonstrated herein, the instant request to participate in the Lifeline program is consistent with the Commission's requirements for ETC designation, and would promote the goals of universal service by offering the many benefits of supported services to low-income customers in the Non-Jurisdictional States. As discussed above, Excess Telecom's Lifeline offerings will include many features specifically designed for

¹⁵ See *TracFone ETC Order* and *Virgin Mobile Order*, *supra* note 6.

¹⁶ See Attachment N for a chart reflecting the service areas of the non-rural and rural telephone companies that Excess Telecom's authorized service area covers in the Non-Jurisdictional States.

qualifying low-income customers, who currently lack appealing and affordable options for wireless services, many of whom are therefore unable to subscribe to wireless services.

C. The Limited Designation Request is Consistent with Recent Precedent

Excess Telecom's request for designation to participate in the Lifeline program is consistent with the Commission's decisions conditionally designating TracFone Wireless and Virgin Mobile as ETCs in several states.¹⁷ In its decisions, the Commission determined that the requests of TracFone and Virgin Mobile satisfied all of the eligibility requirements and that designation would serve the public interest.¹⁸ The Commission specifically noted in the *TracFone* and *Virgin Mobile Orders* that designation of prepaid wireless providers as ETCs will provide a variety of benefits to low-income consumers, including increased consumer choice, high-quality service offerings and mobile access to emergency services on wireless devices.¹⁹

Excess Telecom requests that the Commission expeditiously process its pending ETC applications so that it can quickly join TracFone and Virgin Mobile in providing qualifying low-income customers with affordable USF-supported Lifeline wireless services. Designation of prepaid wireless providers such as TracFone, Virgin Mobile, and Excess Telecom as ETCs is a significant step towards ensuring that all customers, particularly low-income customers, share in the many benefits associated with access to affordable wireless telecommunications services. During an economic downturn, many existing wireless customers have to forego wireless services because they can no longer afford them. Designation of ETC status to prepaid wireless

¹⁷ See *supra* note 6.

¹⁸ See *TracFone ETC Order*, 23 FCC Rcd at 6212-13 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

¹⁹ See *Id.*

carriers like TracFone, Virgin Mobile, and Excess Telecom helps to close the widening gap for wireless services and provide low-income customers with the significant advantages associated with access to wireless services. The Commission has found that voice service has “become crucial to full participation in our society and economy, which are increasingly dependent upon the rapid exchange of information.”²⁰ As noted in a study sponsored by the Massachusetts Institute of Technology’s Legatum Center for Development and Entrepreneurship and New Millennium Research Council, low-income customers receive significant economic and social benefits from wireless services, including enhanced productivity, increased economic opportunity, and broader access to emergency and safety services.²¹

V. EXCESS TELECOM SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 214(e)(1) of the Act and Section 54.201(d) of the Commission’s rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier’s services, except where the Commission has forborne from the “own facilities” requirement. Applicants also must commit to advertise the availability and rates of such services.²² As detailed below, Excess Telecom satisfies each of the above-listed requirements.

²⁰ See *Lifeline and Link Up Reform Order* at ¶ 12.

²¹ Nicholas P. Sullivan, New Millennium Research, *Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys*, (April 2008), available at http://newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf.

²² See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

A. Excess Telecom is a Common Carrier

Commercial mobile radio service (CMRS) resellers like Excess Telecom are common carriers.²³

B. Excess Telecom Will Provide the Supported Services Consistent With the Commission’s Grant of Forbearance from Section 214’s Facilities Requirements

Although Section 214 requires ETCs to provide services using their facilities, at least in part, the Commission has forbore from that requirement with respect to carriers such as Excess Telecom. In the *Lifeline and Link Up Reform Order*, the Commission granted forbearance from the “own-facilities” requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan providing specific information regarding the carrier’s service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary.²⁴

²³ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (recognizing that wireless resellers are included in the statutory “mobile services” category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) (establishing that “mobile services” providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) (“We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, . . . all mobile telephone services *and resellers of such services.*”) (emphasis added).

²⁴ See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373 and 379.

Excess Telecom will avail itself of the FCC's grant of blanket forbearance.²⁵ In accordance with the *Lifeline and Link Up Reform Order*, Excess Telecom filed its Compliance Plan with the FCC on April 16, 2015. A copy of its Compliance Plan is attached to this Petition as Attachment O. Excess Telecom commits to providing Lifeline service in the Non-Jurisdictional States in accordance with the Compliance Plan.²⁶

C. Excess Telecom Offers All of the Required Services and Functionalities

Through its wholesale arrangements with underlying carriers, Excess Telecom is able to provide all of the services and functionalities supported by the universal service program under Section 54.101 of the Commission's rules in the Non-Jurisdictional States. Excess Telecom will make these services and functionalities available to qualifying consumers with service addresses in Alabama, Connecticut, Delaware, District of Columbia, Florida, Maine, New Hampshire, North Carolina, New York, Tennessee, Texas, and Virginia.

1. Voice Grade Access to the Public Switched Telephone Network

Excess Telecom provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from underlying carriers.

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for

²⁵ Although the Company qualifies for and seeks to avail itself of the Commission's grant of forbearance from the facilities requirement of section 214(e)(1)(A), the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state, particularly for purposes of state universal service funding under state program rules and requirements. The Company will follow the requirements of the Commission's Lifeline rules and its Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low-Income fund.

²⁶ To the extent that future changes in federal regulations render the commitments made in the Compliance Plan invalid, the Company reserves the right to modify its operations to come into accordance with federal regulations in effect at that time.

local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer.²⁷ Excess Telecom offers a variety of rate plans that include minutes of use for, among other things, local service.

3. Access to Emergency Services

Excess Telecom provides nationwide access to 911 and E911 emergency services for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. In accordance with its forbearance, Excess Telecom will provide access to 911 and E911 services regardless of activation status and availability of minutes, and will provide only E911-compliant handsets to its Lifeline customers.

4. Toll Limitation for Qualifying Low-Income Consumers

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.²⁸ “ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.”²⁹ Nonetheless, Excess Telecom’s offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. Excess Telecom’s service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. Excess Telecom will not seek reimbursement for toll limitation service.

²⁷ See e.g., *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision 15 FCC Rcd 7331 (2002).

²⁸ See *Lifeline and Link Up Reform Order* at ¶ 367.

²⁹ See *Lifeline and Link Up Reform Order* at ¶ 49.

D. Advertising of Supported Services

Excess Telecom will advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the Commission's regulations,³⁰ and in accordance with the requirements set forth in the *Lifeline and Link Up Reform Order*.³¹ The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline services, using media of general distribution that may include advertisements via television, radio, and the internet, in addition to celebrity endorsements and social media. These advertising campaigns will be specifically targeted to reach low-income customers, promoting the availability of cost-effective wireless services to this neglected consumer segment. Excess Telecom will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service:³² (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. Excess Telecom's website and printed collateral will explain the documentation necessary for enrollment, and the details of Excess Telecom's plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.³³ For broadcast

³⁰ See 47 C.F.R. § 54.201(d).

³¹ See *Lifeline and Link Up Reform Order* at Section VII.F.

³² The Company understands the term "marketing materials" includes materials in all media, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the Lifeline-supported service offering, including application and certification forms. See *Lifeline and Link Up Reform Order* at ¶ 275.

³³ See *Lifeline and Link Up Reform Order* at ¶ 275.

advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, Excess Telecom will include the URL link for its website where disclosures will be listed. Additionally, Excess Telecom will disclose the company name under which it does business.

In addition, Excess Telecom may utilize its network of retail partners to help promote the availability of its Lifeline plans, especially those retail outlets that are frequented by low-income consumers. In any event that Excess Telecom utilizes such partners, it will provide such retail vendors with signage to be displayed where Excess Telecom products are sold, and with printed materials describing Excess Telecom's Lifeline program. Given the relationship that exists between Excess Telecom, low-income consumers, and retail outlets that are often visited by low-income consumers, Excess Telecom expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Excess Telecom may supplement these methods of communication to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the Non-Jurisdictional States. Excess Telecom may distribute brochures at various state and local social service agencies, and/or partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline services.

E. Service Commitment Throughout the Proposed Designated Service Area

Excess Telecom will provide service in the Non-Jurisdictional States by reselling service, which it obtains from its underlying facilities-based provider. The underlying provider's network is operational and largely built out. Thus, Excess Telecom will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission. Excess Telecom commits to comply with the service

requirements applicable to the support that it receives.³⁴

F. Five-Year Network Improvement Plan

As set forth in the *Lifeline and Link Up Reform Order*, 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.³⁵

G. Ability to Remain Functional in Emergency Situations

In accordance with 47 C.F.R. §54.202(a)(2), Excess Telecom has the ability to remain functional in emergency situations. As described herein, Excess Telecom purchases wireless network services on a wholesale basis from large, national carriers that are subject to various regulatory requirements to remain functional in emergencies. Through its underlying carriers, Excess Telecom provides to its customers the same ability to remain functional in emergency situations as currently provided by those carriers to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. Furthermore, the Company is subject to its own 911 requirements in 47 C.F.R. 20.18(m), and has committed to specific 911 and E911-related requirements – including with respect to E911 handsets – in its Compliance Plan.

H. Commitment to Consumer Protection and Service Quality

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.³⁶ Excess Telecom commits to satisfying all

³⁴ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

³⁵ See *Lifeline and Link Up Reform Order* at ¶ 386.

³⁶ See 47 C.F.R. § 54.202(a)(3).

such applicable state and federal requirements related to consumer protection and service quality standards. Excess Telecom commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

I. Excess Telecom is Financially and Technically Capable

Excess Telecom is financially and technically capable of providing Lifeline-supported services. As evidenced in Attachment O, Exhibit D,³⁷ the principals of Excess Telecom have established a substantial line of credit and set aside a sizeable amount of cash to fund the Company. Excess Telecom has not been subject to enforcement action or ETC revocation proceedings in any state. Excess Telecom is financially able to provide Lifeline-supported services and will not rely exclusively on universal service support to operate.³⁸ In the event that USAC ceases disbursements for a period of time, the Company will still be able to provide service to its customers. Lifeline is only one of the services that Excess Telecom will offer. Excess Telecom will also provide non-Lifeline wireless telephone service and resell international minutes. Excess Telecom intends to act as a vendor to other retail wireless telecommunications providers, serving as an online distribution point for additional airtime as well as providing phone repair or exchange services.

Furthermore, Excess Telecom has retained strategic business partners that have great depth in the telecommunications industry and offer extensive telecommunications business technical and managerial expertise to the Company.³⁹ CGM will provide business planning and strategy

³⁷ The confidential, unredacted version of Exhibit D was filed with the Company's Compliance Plan on April 16, 2015 and is incorporated herein by reference.

³⁸ See *Lifeline and Link Up Reform Order* at ¶ 387.

³⁹ See Attachment O, Exhibit E for strategic business partners and Attachment O, Exhibit F for key management and consultant bios. Pat McDonough individually provided consulting services to Excess Telecom, but is now employed full-time, and as such, is not available to consult further with Excess Telecom.

development, and ensure development of a compliant infrastructure so that all aspects of Lifeline service implementation are driven by compliance as a top priority; The Law Office of Lance J.M. Steinhart, P.C., has been providing telecommunications legal services since 1990 and will serve as the Company's regulatory counsel; FAS Tek Compliance Solutions, Inc. will handle ongoing regulatory and tax compliance services, and Expert Telecom Compliance, Inc. will provide consulting, regulatory compliance and industry intelligence unique to Lifeline providers. Excess Telecom will provide resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carriers.

VI. EXCESS TELECOM WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE LIFELINE AND LINK-UP REFORM ORDER

A. Consumer Eligibility and Enrollment

Excess Telecom will certify and verify consumer eligibility for Lifeline in accordance with its Compliance Plan, which outlines how the Company will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer eligibility, Excess Telecom will rely on the state identification or database.⁴⁰ In instances where Excess Telecom is responsible for the initial determination and annual recertification of consumer eligibility, the Company will follow the procedures set forth below.

1. One-Per-Household

Excess Telecom understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as “any individual or group of

⁴⁰ See *Lifeline and Link Up Reform Order* at ¶ 98.

individuals who are living together at the same address as one economic unit.”⁴¹ Upon receiving an application for Lifeline support, Excess Telecom will check the National Lifeline Accountability Database (“NLAD”) to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. Excess Telecom will also search its own internal database of active customers, real-time, pre-sale, to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If Excess Telecom determines that an individual at the applicant’s address is currently receiving Lifeline-supported service, Excess Telecom will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, Excess Telecom will require applicants to complete and submit to the Company USAC’s one-per-household template, which will contain the following: (1) an explanation of the Commission’s one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant’s household and share in the household’s expenses or benefit from the applicant’s income; and (4) the penalty for a consumer’s failure to make the required one-per-household certification (i.e., de-enrollment).⁴² Excess Telecom will deny the Lifeline application of any individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

⁴¹ See *Lifeline and Link Up Reform Order* at ¶ 74.

⁴² See *Lifeline and Link Up Reform Order* at ¶ 78.

On its certification forms, a draft sample of which is attached,⁴³ Excess Telecom will obtain a consumer's permanent residential address (which cannot be a P.O. Box or General Delivery address), unless they only have a temporary address, and a billing address for the service, if different (which may include a P.O. Box or General Delivery address).⁴⁴ Excess Telecom will inquire on its certification forms whether or not the applicant's address is a temporary one.⁴⁵ If and when the 90-day verification rules become effective, Excess Telecom will notify the consumer that if they have a temporary address, the Company will contact the consumer every 90 days, by phone or text, to verify that he or she continues to rely on that address, and that if the consumer fails to respond within 30 days of Excess Telecom's attempt to verify the temporary address, he or she will be de-enrolled from the Lifeline program.⁴⁶ Also on its certification forms, Excess Telecom will explain that if the subscriber moves, they must provide their new address to the Company within 30 days of moving.⁴⁷ If the subscriber has moved, Excess Telecom will update the NLAD, once in place, with the information within 10 business days of receipt of the information.⁴⁸

As detailed below, Excess Telecom's certification form will clearly explain the one-per-household requirement and all consumers must certify that they receive Lifeline support for a single subscription per household.

⁴³ See Attachment O, Exhibit A. The draft form remains subject to change, but substantially reflects the content of the Company's application.

⁴⁴ See *Lifeline and Link Up Reform Order* at ¶ 85.

⁴⁵ See *Lifeline and Link Up Reform Order* at ¶ 89.

⁴⁶ See *id.* As of the date of filing of this Petition, this requirement has not been approved pursuant to the Paperwork Reduction Act.

⁴⁷ See *Lifeline and Link Up Reform Order* at ¶ 85.

⁴⁸ See *id.*

2. Initial and Annual Certification

Consumers will be signed up in person or directed, via company literature, collateral or advertising, to a toll-free telephone number and to the Company website, which will provide information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Excess Telecom's application form will identify that it is a "Lifeline" application. Excess Telecom will provide Lifeline-specific training to all personnel, whether employees, agents, or representatives, who interact with actual or prospective consumers with respect to obtaining, changing, or terminating Lifeline services.

Excess Telecom's initial and annual certification forms will conform to the list of requirements provided in the *Lifeline and Link Up Reform Order*, Appendix C and C.F.R. § 54.410(d), as amended.⁴⁹ The Company's Lifeline certification forms, a draft sample of which is provided in Attachment O as Exhibit A, will require each prospective subscriber to provide the following information:

- i. The subscriber's full name;
- ii. The subscriber's full residential address;
- iii. Whether the subscriber's residential address is permanent or temporary;
- iv. The subscriber's billing address, if different from residential address;
- v. The subscriber's date of birth;
- vi. The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
- vii. If seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and
- viii. If seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in the subscriber's household.

The certification forms will also explain in clear, easily understandable language that:

⁴⁹ See *Lifeline and Link Up Reform Order* at pp. 227-29.

- i. Lifeline is a federal benefit;
- ii. Lifeline service is available for only one line per household;
- iii. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- iv. Households are not permitted to receive benefits from multiple providers;
- v. Violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and
- vi. A Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

Excess Telecom will require all consumers, at sign up and annually thereafter, to certify under penalty of perjury that:

- i. The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409;
- ii. The subscriber will notify the carrier within thirty (30) days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit;
- iii. If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in 54.400(e);
- iv. If the subscriber moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within thirty (30) days;
- v. If the subscriber provided a temporary residential address, he or she will be required to verify his or her temporary residential address every ninety (90) days;
- vi. The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;
- vii. The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge;
- viii. The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and
- ix. The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits pursuant to § 54.405(e)(4).

Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements. Consumers who do not complete the application process in person must return the signed application and support

documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures, including Interactive Voice Response (IVR) recordings that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.⁵⁰

Enrollment Compliance Platform. Excess Telecom has partnered with CGM, LLC (“CGM”), a premier Lifeline Service Bureau, for assistance with Lifeline compliance in general and with enrollment in particular. CGM, whose motto is “Credibility through Compliance,” was founded in 1997 and is well-respected in the industry among carriers and regulators alike. Excess Telecom will utilize CGM’s Real-Time Enrollment Compliance Platform (“CGM App”) to process Lifeline applications. The CGM App is fully bonded with the NLAD and numerous state databases, and allows the ETC to ensure that every activation is performed in a 100% compliant manner. See Attachment O, Exhibit B for a summary of the enrollment process using the CGM App.⁵¹

Enrollment in Person. Excess Telecom will seek to enroll Lifeline customers in person by creating a presence at social service locations, community events (such as flea markets and festivals), and retail locations (such as independent wireless stores and cell phone repair stores) that typically have a high turnout of Lifeline-eligible consumers. Excess Telecom will advertise its presence at these events and locations in advance. Tent events will consist of a 10 X 10 tent that will be set up outside a retail location after an approval has been made by the owner/operator of the property. The tent will contain signage that includes Excess Telecom company name, eligibility programs that will qualify a customer, one-per-household disclaimers and the types of phone service

⁵⁰ See *Lifeline and Link Up Reform Order* at ¶ 168.

⁵¹ The confidential, unredacted version of Exhibit B was filed with the Company’s Compliance Plan on April 16, 2015 and is incorporated herein by reference.

plans that are available. There will also be an informational brochure available at every tent event that a customer can take with them whether they choose to enroll in Excess Telecom's service or not. Table setups will be used for both indoor events & tent events. They will consist of a table with banners or signage that displays the Excess Telecom company name, web address, toll-free number and Excess Telecom service offerings. All materials, rates, terms and conditions, disclosures, and copies of applications will be available to consumers prior to applying for Excess Telecom Lifeline service. Excess Telecom representatives will discuss the Lifeline program requirements, disclosures, eligibility requirements, and terms and conditions of Excess Telecom service with consumers as well as answer any additional questions consumers may have.

When a prospective customer applies at an event, Company employees, agents or representatives ("personnel") will be equipped with a portable electronic device (i.e. tablet) in order to utilize the CGM App. Personnel will ask to see a government issued ID to confirm the applicant is who they claim to be, and the CGM App will validate the address via a USPS/Melissa Database. The CGM App will check the NLAD to confirm that the applicant is not already receiving a Lifeline subsidy from Excess Telecom or any other ETC. If the customer indicates on the application form that their address is a multi-household residence, personnel will require the applicant to complete USAC's one-per-household template as well. In cases where an eligibility database exists, the CGM App will query the database to determine eligibility. In states where eligibility databases are not available, the applicant is required to provide proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. The CGM App will require personnel to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (e.g. Food Stamps) and a unique identifier (e.g. last 3 digits of document ID). Eligibility documents are returned to the customer after review. Finally, the CGM

App will prompt Excess Telecom personnel to verbally review all certifications and disclosures with the applicant before they sign the application form, making sure the applicant verbally acknowledges each required certification before moving on to the next.

Excess Telecom recognizes that any phone that is given to a consumer that is not eligible for Lifeline reimbursement costs the company valuable resources, and every possible effort will be made to prevent any unauthorized persons from receiving a free phone or subsidized Lifeline service from the Company. Upon successful completion of the certification process, the Lifeline-eligible customer is allowed to receive their free phone in person. In instances where eligibility databases cannot be accessed in real-time, Excess Telecom will mail the phone via traceable delivery to eligible customers once verification of eligibility is complete. Customers will be instructed to contact Excess Telecom customer service and provide their unique customer ID (i.e. PIN or last four of SSN) in order to authenticate and activate their Lifeline service.

In the event Excess Telecom enrolls customers at retail stores, the protocol for signing up customers would closely resemble the process at an event. Company employees, agents, or representatives are able to access necessary databases (USPS/Melissa, NLAD, eligibility databases) to verify eligibility, and, when required, can personally review eligibility based on proof of income or program participation. Company personnel are able to verbally review the required disclosures with applicants and obtain the completed application form in person. Phones are delivered upon successful completion of the certification process, as detailed above.

Enrollment Online. Excess Telecom will also rely heavily upon television, radio, and social media advertising intended to drive prospective customers to the Company's website for online enrollment. Excess Telecom will utilize the CGM App for online enrollment as well. When prospective customers fill out their information online using the CGM App, it will automatically run the necessary database checks (USPS/Melissa, NLAD, eligibility databases).

The CGM App highlights each certification that is required and requires consumers to acknowledge each certification before moving on to the next field.⁵² If the customer indicates that their address is a multi-household residence, the CGM App will require the applicant to complete USAC's one-per-household template as well. If no eligibility database is available, the CGM App will advise the applicant that they are required to provide proof of identity and verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to the Company as well as what documentation qualifies as proof of benefits. The application will be placed in a "hold" status until the Company receives copies of the applicant's proof documentation and government-issued ID. Unless and until FCC rules permit retention of proof documentation, Company personnel will review the documentation and record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (e.g. Food Stamps) and a unique identifier (i.e. last 3 digits of document ID), and destroy copies of proof documentation. Excess Telecom will mail the phone via traceable delivery to eligible customers once verification of eligibility is complete. Customers will be instructed to contact Excess Telecom customer service and provide their unique customer ID (i.e. PIN or last four of SSN) in order to authenticate and activate their Lifeline service.

General Enrollment Procedures. Excess Telecom will determine eligibility utilizing the income and program criteria currently utilized by federal default states (47 C.F.R. § 54.409(a), (b)), as well as any additional state-specific criteria. Prior to enrolling a new subscriber, Excess Telecom will check the eligibility of low-income consumers first by accessing state or federal

⁵² See *Lifeline and Link Up Reform Order* at ¶ 123.

social services electronic eligibility databases, where available.⁵³ If a database is used to establish eligibility, Excess Telecom will not require documentation of the consumer's participation in a qualifying federal program; instead, Excess Telecom or its representative will note in its records a description of what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.⁵⁴ However, in states where there is no state administrator, the state commission or other state agency is not making eligibility determinations, and there is no automated means for Excess Telecom to check electronic databases for eligibility, Excess Telecom will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.⁵⁵ Excess Telecom will require acceptable documentation both for income eligibility and for program eligibility. In accordance with FCC rules, Excess Telecom will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility.⁵⁶ Excess Telecom understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases Excess Telecom remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.⁵⁷

Excess Telecom will provide Lifeline-specific training to all personnel – employees, agents, and representatives – designed to give them an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a

⁵³ See *Lifeline and Link Up Reform Order* at ¶ 97.

⁵⁴ See *Lifeline and Link Up Reform Order* at ¶ 98.

⁵⁵ See *Lifeline and Link Up Reform Order* at ¶ 99.

⁵⁶ See *Lifeline and Link Up Reform Order* at ¶ 101. Excess Telecom will retain copies of proof documentation in the event that FCC rules are revised to allow for or require retention.

⁵⁷ See *Lifeline and Link Up Reform Order* at ¶ 110.

customer's eligibility to participate in the Lifeline program under the Commission's rules. No Excess Telecom employee, agent, or representative may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Among other things, the Lifeline program training will discuss the Company's Lifeline application form (*see* Attachment O, Exhibit A) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate the ability of employees, agents, or representatives to explain each item contained therein and answer any customer questions. Personnel will also be trained to use the CGM App, which combines CGM's compliance expertise with leading technology to efficiently prompt the user through a compliant electronic application process. The CGM App is more effective than an error-prone manual process and is constructed to inherently safeguard against fraud by agent or applicant.

Because the Company is responsible for the actions of all its personnel, including those enrolling customers in any Company-owned or agent retail locations, and a Company employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company always "deals directly" with its customers to certify and verify customers' Lifeline eligibility.

3. Annual Re-Certification

Excess Telecom understands that it must re-certify the eligibility of its entire Lifeline subscriber base and report the results to USAC by January 31 each year, and the Company may elect to perform this re-certification on a rolling basis throughout the year.⁵⁸ Excess Telecom

⁵⁸ *See Lifeline and Link Up Reform Order* at ¶ 130.

will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.⁵⁹ The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact the Company. Excess Telecom will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended, as detailed in section VI.A.2 above. The Company will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Excess Telecom understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more of such options for its certifications.⁶⁰

Alternatively, where a database containing consumer eligibility data is available, Excess Telecom (or state agency or third-party, where applicable) will instead query the database and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the state data, Excess Telecom will contact the subscriber every year during the annual certification process to obtain a valid address.⁶¹ Excess Telecom understands that it has the option to elect USAC to administer the self-certification process on the Company's behalf.⁶²

Excess Telecom will certify its compliance with Commission rules on an annual Lifeline eligible telecommunications carrier certification form and when submitting FCC Forms 497 to

⁵⁹ *See id.*

⁶⁰ *See Lifeline and Link Up Reform Order* at ¶ 132.

⁶¹ *See Lifeline and Link Up Reform Order* at ¶ 131.

⁶² *See Lifeline and Link Up Reform Order* at ¶ 133.

USAC for reimbursement. As part of Excess Telecom's submission of re-certification data pursuant to 47 C.F.R. § 54.416, an officer of the Company will certify annually to USAC:

(1) that the Company has procedures in place to review consumers' documentation of income-and program-based eligibility. In instances where the Company confirms consumer eligibility by relying on official program eligibility data, such as a state or federal database, an officer of the Company will attest to what data the Company uses to confirm consumer eligibility in each state, and

(2) that the Company is in compliance with all federal Lifeline certification procedures.⁶³

B. Other Reforms to Eliminate Waste, Fraud and Abuse

Excess Telecom shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein and in its Compliance Plan, with the belief that the procedures it will implement will prevent Company customers from engaging in such abuse of the program, inadvertently or intentionally.

Excess Telecom has implemented enrollment procedures designed to prevent subsidies for duplicate, ineligible, or inactive subscribers. The Company contracts with a third party Lifeline service bureau, currently CGM, LLC, of Roswell, Georgia, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) duplicate same-month Lifeline subsidies (Double Dip): any name/address that is already receiving a Lifeline subsidy from the Company will be automatically prevented from receiving a second Lifeline subsidy in that same month; and (2) inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described herein, Excess Telecom ensures that it does not over-request from support funds.

⁶³ See *Lifeline and Link Up Reform Order* at ¶ 126-27.

During the Lifeline application process, the Company details all required disclosures with the applicant, including the one-per-household rule. As detailed in section IV.A.2, Excess Telecom validates each applicant's identity via a government issued ID card, passport, etc. Additionally, as mentioned above, Excess Telecom requires the applicant to provide their date of birth (DOB) and last four digits of their social security number (SSN). Requiring DOB and SSN ensures that neither the applicant nor the Company representative can forge certification forms based on false names and addresses. Excess Telecom validates the applicant's address via a USPS/Melissa Database to ensure the address is correct. Excess Telecom also verifies that the applicant is eligible to receive the Lifeline subsidy. To do this, Excess Telecom checks the NLAD and any available eligibility database. If an eligibility database is not available, the applicant is required to provide proof of eligibility. This prevents ineligible applicants or duplicate subscribers from receiving the subsidy.

1. National Lifeline Accountability Database

Excess Telecom will participate in the NLAD. As required by the *Lifeline and Link Up Reform Order*, Excess Telecom will provide to the NLAD subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date (when applicable), and amount of federal Lifeline support being sought for that subscriber.⁶⁴ Excess Telecom will query the NLAD to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Fund.⁶⁵

Furthermore, on its certification form, Excess Telecom will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the

⁶⁴ See *Lifeline and Link Up Reform Order* at ¶ 189.

⁶⁵ See *Lifeline and Link Up Reform Order* at ¶ 203.

subscriber's name, telephone number, and address will be divulged to USAC (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.⁶⁶

2. Subscriber Usage

Excess Telecom will not seek reimbursement from the USF for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, Excess Telecom will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.⁶⁷ Excess Telecom will notify its subscribers at service initiation, via the certification form and via script that is reviewed with every customer, about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.⁶⁸ An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.⁶⁹ Excess Telecom utilizes tracking software to notify the customer if the customer has not used their service for more than 30 or 60 consecutive days. Furthermore, a third party contractor validates the Company's subsidy data to prevent a subsidy request for

⁶⁶ See *Lifeline and Link Up Reform Order* Appendix C.

⁶⁷ See *Lifeline and Link Up Reform Order* at ¶ 257.

⁶⁸ See *id.*

⁶⁹ See *Lifeline and Link Up Reform Order* at ¶ 261.

customers that are inactive under the Company's non-usage policy.⁷⁰ After notification, if the customer fails to use the phone, it is automatically de-enrolled pursuant to the procedures outlined in section VI.C below. Excess Telecom will continue to comply with applicable public safety, including transmitting 911 calls to the appropriate PSAP even if the Company is no longer providing Lifeline service to a consumer.⁷¹

3. Marketing & Outreach

Excess Telecom will implement the measures outlined herein to help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the limitations of the program, so as to prevent duplicative or otherwise ineligible service as well as other forms of waste, fraud, and abuse. Excess Telecom will explain in clear, easily understood language substantially the following disclosures in all marketing materials related to the supported service:⁷² (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. Excess Telecom's website and printed collateral will also explain the documentation necessary for enrollment, and the details of Excess Telecom's plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the

⁷⁰ CGM, LLC is currently the Company's third party contractor.

⁷¹ See *Lifeline and Link Up Reform Order* at ¶ 262. 911 transmission will actually be performed by the Company's underlying facilities-based CMRS provider.

⁷² See Attachment O, Exhibit C for a sample advertisement. The Company understands the term "marketing materials" includes materials in all media, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the Lifeline-supported service offering, including application and certification forms. See *Lifeline and Link Up Reform Order* at ¶ 275.

program.⁷³ For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, Excess Telecom will include the URL link for its website where disclosures will be listed. Additionally, Excess Telecom will disclose the company name under which it does business.⁷⁴

4. Audits

The *Lifeline and Link Up Reform Order* requires ETCs that draw \$5 million or more in the aggregate on an annual basis from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, to hire an independent licensed certified public accounting firm to conduct a biennial audit according to government accounting standards to assess the ETC's overall compliance with the program's requirements.⁷⁵ Excess Telecom will comply with this requirement, including applicable rules regarding the dissemination of audit findings to the Commission, USAC, and relevant state and Tribal governments within 30 days upon issuance.⁷⁶

C. De-Enrollment

If at any time an Excess Telecom Lifeline customer wishes to de-enroll from the Company's Lifeline program, Company customer service representatives will handle such elective de-enrollment requests. Excess Telecom Lifeline customers simply call the Company, via 611 or the toll-free customer service number, and they can speak to a live operator to de-enroll from Excess Telecom's Lifeline program. Excess Telecom will de-enroll consumers from

⁷³ See *Lifeline and Link Up Reform Order* at ¶ 275.

⁷⁴ See *id.*

⁷⁵ See *Lifeline and Link Up Reform Order* at ¶ 291.

⁷⁶ See *Lifeline and Link Up Reform Order* at ¶ 294.

the Company's Lifeline program in the following instances, according to C.F.R. § 54.405(e):

Ineligibility. Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).⁷⁷

If a customer does not respond to the Company's annual verification survey within 30 days, or if Excess Telecom has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs the Company or the state that he or she is ineligible for Lifeline), Excess Telecom will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.⁷⁸ Similarly, Excess Telecom will de-enroll a subscriber if they fail to respond to the Company's attempt to verify a temporary address within 30 days.⁷⁹

Duplicative Support. Subject to USAC's Duplicate Resolution Process and anticipated Duplicate Scrubbing Process,⁸⁰ Excess Telecom will de-enroll a subscriber within five (5) business days if the Company is informed by USAC that the subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service.

Non-Usage. Excess Telecom will de-enroll any subscriber that has not used the

⁷⁷ See *Lifeline and Link Up Reform Order* at ¶ 122.

⁷⁸ See *id.* In states that have dispute resolution procedures applicable to Lifeline termination, the Company will comply with the state requirements.

⁷⁹ See *Lifeline and Link Up Reform Order* at ¶ 89.

⁸⁰ See *Lifeline and Link Up Reform Order* at ¶ 214-16.

Company's Lifeline service for 60 consecutive days, as discussed in section VI.B.2 above. Excess Telecom will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be initiated after 30-days of non-usage. Excess Telecom will update the NLAD within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.⁸¹

D. Additional Rule Amendments

1. Terms and Conditions of Service

Excess Telecom's Lifeline offering is summarized in Attachment O, Exhibit G, and the terms and conditions of service are provided in Attachment P. These terms and conditions are subject to change as needed, and the most current version will be maintained on the Company's website, <http://www.myfreephonenow.com/>.

2. Reporting Requirements

Excess Telecom will report all information required by section 54.422, including as it may heretofore be amended. This includes the names of the Company's holding company (if any exist), operating companies and affiliates (if any exist), and any branding ("doing-business-as company" or brand designation), and provide to the Commission and USAC general information regarding the terms and conditions of the Lifeline plans for voice telephony service offered specifically for low income consumers through the program offered during the previous

⁸¹ See *Lifeline and Link Up Reform Order* at ¶ 257.

year, including the number of minutes provided, and whether there are additional charges to the consumer for service, including minutes of use and/or toll calls.⁸²

3. Reimbursement from USAC

In seeking reimbursement for Lifeline, Excess Telecom will comply with the requirements of C.F.R. § 54.407, as revised by the *Lifeline and Link Up Reform Order*.⁸³ Excess Telecom will certify when seeking reimbursement that the Company has obtained a valid certification form for each consumer for whom the Company seeks Lifeline reimbursement,⁸⁴ and the Company will seek reimbursement for actual lines served, not projected lines.⁸⁵

VII. DESIGNATION OF EXCESS TELECOM AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.⁸⁶ Designation of Excess Telecom as an ETC in the Non-Jurisdictional States will promote the public interest by providing low-income consumers in the Non-Jurisdictional States with affordable and high quality wireless services. Many low-income consumers have yet to reap the full benefits of the wireless marketplace. Whether because of financial constraints, poor credit or intermittent employment, these

⁸² See *Lifeline and Link Up Reform Order* at ¶¶ 296, 390. Section 153 of the Act defines “affiliate” as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.”

⁸³ See *id* page 221.

⁸⁴ See *id* at ¶ 128.

⁸⁵ See *id* at ¶ 302.

⁸⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

consumers often lack access to the benefits that wireless services bring to other consumers.⁸⁷ Designating Excess Telecom as an ETC in the Non-Jurisdictional States will enable it to expand the availability of affordable telecommunications services to qualifying consumers, leading to lower prices and increased choice.⁸⁸

The instant request for limited ETC designation must be examined in light of the Act's goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating Excess Telecom as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the Non-Jurisdictional States—the intended beneficiaries of universal service. The Company's participation in the Lifeline program also undoubtedly would increase opportunities for the company to serve these customers with appealing and affordable service offerings.

A. Advantages of Excess Telecom's Service Offering

The public interest benefits of the Company's wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service, and, where

⁸⁷ See *supra* note 21.

⁸⁸ See *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730, 20760 ¶ 52 (1996).

available, E911 service in accordance with current FCC requirements. Excess Telecom’s Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. Excess Telecom’s Lifeline rate plans will allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, without the burden of credit checks, contracts, or activation fees.

Most importantly, Excess Telecom’s Lifeline service will provide low-income residents with the convenience and security offered by wireless services—even if their financial position deteriorates. ETC designation in the Non-Jurisdictional States would enable Excess Telecom to offer appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing Excess Telecom with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

In sum, ETC designation in the Non-Jurisdictional States would enable Excess Telecom to provide all of the public benefits cited by the Commission in its analysis in the *TracFone* and *Virgin Mobile Orders*. Namely, Excess Telecom would provide “increased consumer choice, high-quality service offerings, and mobility,”⁸⁹ as well as the safety and security of effective 911 and E911 services.⁹⁰

⁸⁹ See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15.

⁹⁰ See *Virgin Mobile Order*, 24 FCC Rcd at 3391 ¶ 23.

B. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.⁹¹ Designation of Excess Telecom as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of Excess Telecom as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.⁹² Designation of Excess Telecom as an ETC would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

C. Impact on the Universal Service Fund

Excess Telecom will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC’s Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order*, Excess Telecom will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, the Company’s designation as an ETC will not increase the number of persons eligible for Lifeline support. Excess Telecom’s ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to

⁹¹ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

⁹² See 47 U.S.C. § 254(b)(1).

telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. According to the FCC, “the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest,” and “[a] new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs.”⁹³

VIII. ANTI-DRUG ABUSE CERTIFICATION

Excess Telecom certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

⁹³ See *Petition of i-wireless, LLC for Forbearance from 47 U.S.C § 214(e)(1)(A)*, Order, FCC 10-117 (rel. June 25, 2010) at ¶ 19.

IX. CONCLUSION

As discussed above, designation of Excess Telecom as an ETC in the Non-Jurisdictional States accords with the requirements of Section 214(e)(6) of the Act and is in the public interest.

For all of the foregoing reasons, Excess Telecom respectfully requests that the Commission designate Excess Telecom as an ETC in the Non-Jurisdictional States.

Respectfully submitted,

/s/ Lance Steinhart

Lance J.M. Steinhart
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E-Mail: lsteinhart@telecomcounsel.com

Attorneys for Excess Telecom, Inc.

June 12, 2015

Attachment A

Proposed Lifeline Rates

Excess Telecom, Inc.

Lifeline Offering

275 Voice Minutes

275 Text Messages

Net cost to Lifeline customer - \$0 (free)

Included:

- Free handset
- Free calls to 911 emergency services
- Free calls to Customer Service
- Free domestic long distance
- Access to Caller ID, Call Waiting, and Voicemail

Additional Airtime

Available in competitive denominations at \$0.05 per minute or less

Attachment B

Affirmative Statement of the Alabama Public Service Commission

Alabama Public Service Commission

Orders

PINE BELT CELLULAR, INC. and PINE BELT PCS, INC.,

Joint Petitioners

PETITION: For ETC status and/or clarification regarding the jurisdiction of the Commission to grant ETC status to wireless carriers.

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214 (e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

Attachment C

Affirmative Statement of the Connecticut Department of Public Utility Control



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

October 14, 2004
In reply please refer to:
UR&R:TE: Undocketed:PFR

Tracie R. Chesterman, Attorney
Greenberg Traurig
Met Life Building
200 Park Avenue
New York, NY 10166

Re: TracFone Wireless, Inc.

Dear Attorney Chesterman:

The Department of Public Utility Control (Department) is in receipt of a letter dated August 27, 2004, on behalf of TracFone Wireless, Inc. (TracFone or Company) requesting a statement that TracFone is not subject to the Department's jurisdiction. Specifically, TracFone requests affirmation from the Department that it does not exercise jurisdiction over Commercial Mobile Radio Service (CMRS) providers, including TracFone, for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier (ETCs) designations. TracFone is seeking designation as an ETC by the Federal Communications Commission (FCC). TracFone is a reseller of CMRS and provides service in Connecticut through a virtual network consisting of services obtained from licensed operators of wireless networks.

The Department does not regulate or license the wireless carrier services' rates and charges per the Federal Omnibus Budget Act of 1993. The Department does, however, continue to regulate the terms, conditions, and provisions under which those services are offered including the funding of other telecommunications services (i.e., 911, Universal Service, Lifeline, Telecommunications Relay Service (TRS), etc.). Since TracFone appears to be a wireless carrier and therefore is not subject to the Department's jurisdiction for the purposes of ETC status.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

A handwritten signature in cursive script that reads "Louise E. Rickard".

Louise E. Rickard
Acting Executive Secretary

Attachment D

Affirmative Statement of the Delaware Public Service Commission



**STATE OF DELAWARE
PUBLIC SERVICE COMMISSION**

861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

August 18, 2010

VIA E-MAIL

Lance J.M. Steinhart, P.C.
1720 Windward Concourse
Suite 115
Alpharetta, Georgia 30005

Dear Mr. Steinhart:

I received your letter on behalf of i-wireless, LLC requesting clarification on Delaware's competitive eligible telecommunication carrier process. This is to confirm that Delaware is a "default" State and, therefore, it is the FCC, not Delaware, that determines eligibility to receive the federally-subsidized price reductions. I am attaching the October 11, 2005 order in PSC Docket No. 05-016T that discusses this issue in a Verizon Delaware, Inc. docket.

I will attach these documents to an e-mail so that you will receive them expeditiously. If you would also like a hard copies of the documents by mail let me know by e-mail and I will forward them to you.

Sincerely

Janis L. Dillard
Acting Executive Director

DOCKET COPY
DO NOT REMOVE FROM OFFICE

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
VERIZON DELAWARE INC., TO MODIFY THE)
LIFELINE SERVICE BY ADDING AN INCOME) PSC DOCKET NO. 05-016T
QUALIFIER TO THE ELIGIBILITY CRITERIA)
(FILED JUNE 17, 2005))

ORDER NO. 6736

This 11th day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.¹ And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

¹See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.² And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.³

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.⁴ In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.⁵ The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.⁶ Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.⁷

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

²See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

³From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

⁴In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

⁵47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

⁶47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

⁷47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.⁸ At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.⁹ Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.¹⁰ Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.¹¹ Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.¹²

⁸See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

⁹That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

¹⁰See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

¹¹See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

¹²See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).

5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, IT IS ORDERED:

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Annetta McRae
Chair

Vice Chair

Jim Corway
Commissioner

John R. ...
Commissioner

[Signature]
Commissioner

ATTEST:

Norma J. Sherwood
Acting Secretary

Attachment E

Affirmative Statement of the District of Columbia Public Service Commission



Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpsc.org

February 29, 2012

Via First Class & Electronic Mail

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C., Attorney at Law
1725 Windward Concourse, Suite 150
Alpharetta, GA 30005

Dear Mr. Steinhart:

Thank you for your February 23, 2012 letter requesting information on whether the Public Service Commission of the District of Columbia ("Commission") designates wireless telecommunications carriers as eligible telecommunications carriers ("ETC") for the purposes of receiving federal universal service funding. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Commission does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate wireless telecommunications carriers as ETCs.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact Lara Walt at 202-626-9191 or lwalt@psc.dc.gov.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Beverly".

Richard A. Beverly
General Counsel

Enclosure



D.C. Council Home

Home Search Help ©



Welcome to the online source for the District of Columbia Official Code

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition Currentness

Division V. Local Business Affairs

Title 34. Public Utilities.

Subtitle V. Telecommunications. Chapter 20. Telecommunications Competition. **→§ 34-2006. Exemptions.**

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

CREDIT(S)

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104-104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through January 11, 2012

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END OF DOCUMENT

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Attachment F

Affirmative Statement of the Florida Public Service Commission

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

June 2, 2011

Mr. Lance J.M. Steinhart, P.C.
Attorney At Law
1720 Windward Concourse
Suite 115
Alpharetta, GA 30005

Re: Docket No. 110101-TP – i-wireless, LLC’s ETC designation

Dear Mr. Steinhart:

We received your May 20, 2011 letter requesting a statement that the Florida Public Service Commission’s jurisdiction to grant ETC designation to i-wireless, LLC changed with Governor Scott’s approval of HB 1231, the telecom reform bill. In your letter, you mentioned that i-wireless, LLC is a commercial mobile radio service provider.

This letter acknowledges that Governor Scott’s approval of HB 1231, the telecom reform bill, revises Chapter 364, Florida Statutes, thereby changing the Commission’s jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, including the revisions by HB 1231 for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider i-wireless, LLC’s bid for ETC status.

Sincerely,

A handwritten signature in black ink that reads "S. Curtis Kiser".

S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

Attachment G

Affirmative Statement of the Maine Public Utilities Commission

June 13, 2013

PUBLIC UTILITIES COMMISSION
Amendment to Standards for Designating
and Certifying Eligible
Telecommunications Carriers Qualified to
Receive Federal Universal Fund Support
(Ch. 206)

ORDER ADOPTING
AMENDED RULE AND
STATEMENT OF FACTUAL
AND POLICY BASIS

WELCH, Chairman; LITTELL and VANNOY, Commissioners

I. SUMMARY

By this Order, we adopt amendments to Chapter 206 of the Commission's rules which establishes standards for the designation and annual certification of Eligible Telecommunications Carriers (ETCs). After these amendments, the Commission will no longer certify carriers that apply for ETC designation for the sole purpose of offering Lifeline, Link-Up, or other low-income program benefits. Going forward, such carriers will apply to the Federal Communications Commission (FCC) for ETC designation.¹

II. BACKGROUND

Chapter 206, adopted by the Commission on November 20, 2007, established standards for the designation and annual certification of ETCs. The rule was created, in large measure, to supplement the federal rules for ETC designation to account for distinctions between the services provided by wireline and wireless ETCs.

Since the adoption of Chapter 206, carriers seeking ETC designation for the sole purpose of offering Lifeline, link-Up, or other low-income benefits have entered the market in ever increasing numbers.² The majority of these carriers are pre-paid wireless service providers that resell the cellular telephone service of large national carriers. These pre-paid wireless ETCs typically provide a telephone handset and offer a set number of minutes (anywhere from 68 to 250 minutes per month) to low-income

¹ This rule is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A of the Maine Revised Statutes.

² The federal Lifeline program provides a subsidy from the federal Universal Service Fund (USF) to ETCs for the purpose of providing discounted telephone service to qualifying low-income consumers. Link-Up is a federal program that provides a subsidy from the federal USF to ETCs to offset the cost of telephone service installation for low-income customers. The FCC has recently eliminated the Link-Up program for all areas of the country except Tribal Lands.

customers at no charge to the customer. The service is made "free" to the low-income customer by the application of a federal universal service fund subsidy (currently \$9.25 per month) to the monthly charge on a customer's account; a charge that exactly equals the amount of the subsidy.

When drafted, Chapter 206 did not contemplate the pre-paid Lifeline business model or the designation of "Lifeline-only" ETCs. Since the proliferation of pre-paid wireless Lifeline-only ETCs, the FCC has taken steps to standardize the certification requirements for such carriers. Notably the FCC recently enacted a requirement that a non-facilities-based wireless ETC applicant have a "compliance plan" approved by the FCC before a state commission or the FCC may designate the applicant as an ETC.³ Further, as there is no state subsidy for Lifeline service, the Commission expends substantial resources administering what is for all intents and purposes a federal program.

On April 9, 2013, we issued a Notice of Rulemaking (NOR) in this proceeding detailing the proposed amendments to Chapter 206. The Commission did not schedule a public hearing on this matter, but, pursuant to rulemaking procedures, we provided an opportunity for interested persons to request such a hearing; the Commission did not receive any public hearing requests. Additionally, we provided interested persons with an opportunity to provide written comments on the proposed amendments to Chapter 206. The deadline for submitting such comments was May 17, 2013; the Commission did not receive any comments by the deadline.

It is the view of the Commission that there is no longer any advantage to Maine consumers, financial or otherwise, for the Commission to certify ETCs that apply for the designation solely for the purpose of offering Lifeline service and receiving the federal Lifeline subsidy. Because the FCC will certify Lifeline-only ETCs, Maine consumers will continue to benefit from the availability of the services offered by those carriers.

In accordance with 5 M.R.S. § 8057-A(1), we stated in our NOR that we expect that there will be no fiscal impact from this rulemaking. Further, we stated that we expect that this rulemaking will not impose an economic burden on small businesses. We continue to believe this will be the case

III. DISCUSSION OF THE RULE AMENDMENTS

A. Section 1: Purpose

In the NOR we proposed to amend Section 1 of the rule to specify that the Commission will not designate ETCs seeking such designation solely for the purpose of receiving support to provide Lifeline, Link-Up, or other low-income services, and that carriers seeking designation for that purpose must apply to the Federal

³ In our experience, the majority of Lifeline-only wireless ETCs are non-facilities-based resellers.

Communications Commission. No comments were received regarding this proposed amendment. Therefore, we adopt the amendment to Section 1 of the rule without modification.

B. Section 2: Definitions

1. Applicant

In the NOR we proposed to amend the definition of "Applicant" to exclude carriers seeking ETC designation solely for the purpose of receiving support to provide Lifeline or other low-income services.

2. Lifeline/Link-Up

In the NOR we proposed eliminating the definition of "Lifeline/Link-up."

No comments were received regarding these proposed amendments. Therefore, we adopt these amendments to Section 2 of the rule without modification.

C. Section 3: Contents of Petition by Applicant

In addition to several non-substantive editorial changes, in the NOR we proposed eliminating the provision in Section 3 that requires ETC applicants to include in their application a statement that the ETC will advertise the availability of low-income programs such as Lifeline and Link-Up. No comments were received regarding this proposed amendment. Therefore, we adopt these amendments to Section 3 of the rule without modification.

D. Section 6: Annual Reports

In addition to several non-substantive editorial changes, in the NOR we proposed eliminating the requirement that Competitive ETCs annually certify that they have publicized the availability of low-income programs such as Lifeline and Link-Up.⁴ No comments were received regarding this proposed amendment. Therefore, we adopt these amendments to Section 6 of the rule without modification.

E. Section 7: Applicability to Carriers Designated as ETCs Before the Effective Date of this Chapter

In the NOR we proposed eliminating a superfluous section requiring submission of information by ETCs that were designated prior to December 4, 2007.

⁴ A Competitive ETC is an ETC that is not an Incumbent Local Exchange Carrier.

No comments were received regarding this proposed amendment. Therefore, we adopt this amendment to Section 7 of the rule without modification.

IV. ORDERING PARAGRAPHS

In light of the foregoing, we

O R D E R

1. That the attached Chapter 206 is hereby adopted;
2. That the Administrative Director shall notify the following of the final adoption of the attached rule:
 - a. All Local Exchange Carriers in the State of Maine;
 - b. All Eligible Telecommunications Carriers in Maine;
 - c. The Telephone Association of Maine;
 - d. All people who have filed with the Commission within the past year a written request for any Notice of Rulemaking.
3. That the Administrative Director shall send copies of this Order and the final rule:
 - a. The Secretary of State for publication in accordance with 5 M.R.S. § 8053(5); and
 - b. Executive Director of the Legislative Council.

Dated at Hallowell, Maine, this 13th day of June, 2013.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Littell
Vannoy

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

Attachment H

Affirmative Statement of the New Hampshire Public Utilities Commission

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

March 28, 2011

RE: ETC Certification in New Hampshire

The federal Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) to promote the availability of quality services at just and reasonable rates to all consumers including low-income customers and those in high cost areas and to increase nationwide access to advanced services in schools, libraries and rural health care facilities. To qualify for universal service funding a carrier must first be certified as an Eligible Telecommunications Carrier (ETC) by the state public utilities commission or, if the state does not assert this authority, by the FCC. *See* 47 U.S.C. §214 (e).

The New Hampshire Public Utilities Commission maintains authority to determine whether landline telecommunications carriers qualify as ETCs. Pursuant to New Hampshire RSA 362:6, the Commission has no jurisdiction over mobile radio communications services. Consequently, the state declines jurisdiction over the certification of wireless carriers as ETCs, leaving that responsibility to the FCC.

Sincerely,

A handwritten signature in cursive script, appearing to read "F. Anne Ross".

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

Attachment I

Affirmative Statement of the New York Public Service Commission

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN
Chairman
THOMAS J. DUNLEAVY
JAMES D. BENNETT
LEONARD A. WEISS
NEAL N. GALVIN



DAWN K. JABLONSKI
General Counsel

JANET HAND DEEXLER
Secretary

March 27, 2003

TO WHOM IT MAY CONCERN:

Re: Nextel CMRS Jurisdiction

We have received a letter request from NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners") for a statement that the State of New York does not exercise jurisdiction over Commercial Mobile Radio Service providers for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier designations under 47 U.S.C. §214(e) and 47 C.F.R. §54.201 *et seq.* In response to this request, please be advised that the New York State Public Service Law (PSL) §5 provides that:

Applications of the provisions of this chapter [i.e., the PSL] through one-way paging or two-way mobile radio telephone service with the exception of such services provided by means of cellular radio communication is suspended unless the commission [i.e., the NYS Public Service Commission] . . . makes a determination, after notice and hearing, that regulation of such services should be reinstated to the extent found necessary to protect the public interest because of a lack of effective competition.

The New York State Public Service Commission has not made a determination that regulation should be reinstated under PSL §5. Consequently, based on the representation by Nextel Partners that it is a CMRS provider, Nextel Partners would not be subject to the application of the PSL, and consequently the jurisdiction of the New York Public Service Commission, for the purposes of making the Eligible Telecommunications Carrier designation.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Elizabeth H. Liebschutz'.

Elizabeth H. Liebschutz
Assistant Counsel

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN
Chairman
THOMAS J. DUNLEAVY
JAMES D. BENNETT
LEONARD A. WEISS
NEAL N. GALVIN



DAWN JABLONSKI RYMAN
General Counsel

JACLYN A. BRILLING
Secretary

March 18, 2004

Mitchell Brecher
Greenberg Taurig, LLP
800 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20006

RE: Case 04-C-0227 - Petition of TracFone Wireless, Inc. for a Declaratory Ruling that the Company, a Commercial Mobile Radio Service Provider, is not subject to Commission Jurisdiction.

Dear Mr. Brecher,

I am responding to your letter to Secretary Brillling, dated February 23, 2004, on behalf of TracFone Wireless, Inc. ("TracFone"). In your letter, you requested a statement that the State of New York does not exercise jurisdiction over Commercial Mobile Radio Service (CMRS) providers for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier designations under 47 U.S.C. §214(e) and 47 C.F.R. §54.201 *et seq.* You indicated that TracFone is an authorized reseller of CMRS throughout the United States, including New York.

In response to your request, please be advised that the New York State Public Service Law §5 provides that:

Applications of the provisions of this chapter [the Public Service Law] through one-way paging or two-way mobile radio telephone service with the exception of such services provided by means of cellular radio communication is suspended unless the [New York State Public Service] commission . . . makes a determination, after notice and hearing, that regulation of such services should be reinstated to the extent found necessary to protect the public interest because of a lack of effective competition.

Mr. Mitchell Brecher

March 18, 2004

The New York State Public Service Commission has not made a determination that regulation should be reinstated under Public Service Law §5. Consequently, based on the representation by TracFone that it is a CMRS provider, TracFone would not be subject to the application of the Public Service Law and, therefore, the jurisdiction of the New York Public Service Commission for the purposes of making the Eligible Telecommunications Carrier designation.

As this letter is responsive to your request for a statement, Case 04-C-0227 will be closed.

Sincerely,


Kathleen H. Burgess
Assistant Counsel

Attachment J

Affirmative Statement of the North Carolina Public Utilities Commission

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Designation of Carriers Eligible for Universal)
Carrier Support) ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS from the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23j), enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Patricia Swenson".

Patricia Swenson, Deputy Clerk

Attachment K

Affirmative Statement of the Tennessee Regulatory Authority

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR
SYSTEMS, INC. TO BE DESIGNATED AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

)
)
)
)
)

DOCKET NO.
02-01245

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.¹

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, “[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission.”

The Authority’s lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission’s jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission (“FCC”) to perform the ETC designation.²

¹ This finding is not inconsistent with the Authority’s decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission’s rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

² 47 U.S.C. §214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

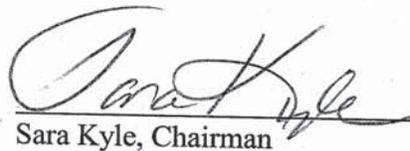
In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to 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 service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of “state-federal comity,” the FCC requires that carriers seeking ETC designation “first consult with the state commission to give the state commission an opportunity to interpret state law.”³ Most carriers that are not subject to a state regulatory commission’s jurisdiction seeking ETC designation must provide the FCC “with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation.”⁴

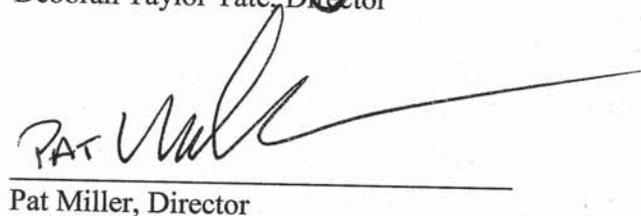
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

³ *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

⁴ *See id.* (The “affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.”)

Attachment L

Affirmative Statement of the Texas Public Utility Commission

PROJECT NO. 40561

2012 NOV 21 AM 11:37
FILED CLERK

**RULEMAKING TO AMEND §
SUBSTANTIVE RULE 26.418 RELATING §
TO DESIGNATION OF COMMON §
CARRIERS AS ELIGIBLE §
TELECOMMUNICATIONS CARRIERS §
TO RECEIVE FEDERAL UNIVERSAL §
SERVICE FUNDS §**

PUBLIC UTILITY COMMISSION

OF TEXAS

**ORDER ADOPTING AMENDMENT TO §26.418
AS APPROVED AT THE NOVEMBER 16, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §26.418, relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds, with no changes to the proposed text as published in the August 31, 2012, issue of the *Texas Register* (37 TexReg 6874). The amendment will exclude commercial mobile radio service (CMRS) resellers from eligibility for designation by the commission as an eligible telecommunications carrier (ETC). Instead, a CMRS reseller will be able to seek designation as an ETC by the Federal Communications Commission (FCC). Project Number 40561 is assigned to this proceeding.

The commission did not receive any comments on the proposed amendment.

The amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2012) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically §51.001, which provides that it is the policy of this state to promote diversity of telecommunications providers and interconnectivity; encourage a fully competitive

telecommunications marketplace; and maintain a wide availability of high quality interoperable, standards-based telecommunications services at affordable rates.

Cross Reference to Statutes: PURA §§14.002 and 51.001.

§26.418. Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds.

- (a) **Purpose.** This section provides the requirements for the commission to designate common carriers as eligible telecommunications carriers (ETCs) to receive support from the federal universal service fund (FUSF) pursuant to 47 United States Code (U.S.C.) §214(e) (relating to Provision of Universal Service). In addition, this section provides guidelines for rural and non-rural carriers to meet the federal requirements of annual certification for FUSF support criteria and, if requested or ordered, for the disaggregation of rural carriers' FUSF support.
- (b) **Applicability.** This section applies to a common carrier seeking designation as an ETC, except for commercial mobile radio service (CMRS) resellers. A CMRS reseller may not seek designation from the commission, but instead may seek designation as an ETC by the Federal Communications Commission (FCC). This section also applies to a common carrier that has been designated by the commission as an ETC, including a CMRS reseller.
- (c) **Service areas.** The commission may designate ETC service areas according to the following criteria.
- (1) **Non-rural service area.** To be eligible to receive federal universal service support in non-rural areas, a carrier must provide federally supported services pursuant to 47 Code of Federal Regulations (C.F.R.) §54.101 (relating to

Supported Services for Rural, Insular, and High Cost Areas) throughout the area for which the carrier seeks to be designated an ETC.

- (2) **Rural service area.** In the case of areas served by a rural telephone company, as defined in §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan), a carrier must provide federally supported services pursuant to 47 C.F.R. §54.101 throughout the study area of the rural telephone company in order to be eligible to receive federal universal service support.

- (d) **Criteria for determination of ETCs.** A common carrier shall be designated as eligible to receive federal universal service support if it:
 - (1) offers the services that are supported by the federal universal service support mechanisms under 47 C.F.R. §54.101 either using its own facilities or a combination of its own facilities and resale of another carrier's services; and
 - (2) advertises the availability of and charges for such services using media of general distribution.

- (e) **Criteria for determination of receipt of federal universal service support.** In order to receive federal universal service support, a common carrier must:
 - (1) meet the requirements of subsection (d) of this section;
 - (2) offer Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E (relating to Universal Service Support for Low-Income Consumers); and

- (3) offer toll limitation services in accordance with 47 C.F.R. §54.400 (relating to Terms and Definitions) and §54.401 (relating to Lifeline Defined).
- (f) **Designation of more than one ETC.**
- (1) Non-rural service areas. In areas not served by rural telephone companies, as defined in §26.404 of this title, the commission shall designate, upon application, more than one ETC in a service area so long as each additional carrier meets the requirements of subsection (c)(1) of this section and subsection (d) of this section.
 - (2) Rural service areas. In areas served by rural telephone companies, as defined in §26.404 of this title, the commission may designate as an ETC a carrier that meets the requirements of subsection (c)(2) of this section and subsection (d) of this section if the commission finds that the designation is in the public interest.
- (g) **Proceedings to designate ETCs.**
- (1) At any time, a common carrier may seek commission approval to be designated an ETC for a requested service area.
 - (2) In order to receive support under this section for exchanges purchased from an unaffiliated carrier, the acquiring ETC shall file an application, within 30 days after the date of the purchase, to amend its ETC service area to include those geographic areas that are eligible for support.
 - (3) If an ETC receiving support under this section sells an exchange to an unaffiliated carrier, it shall file an application, within 30 days after the date of the sale, to

amend its ETC designation to exclude from its designated service area those exchanges for which it was receiving support.

(h) **Application requirements and commission processing of applications.**

(1) **Requirements for notice and contents of application.**

(A) Notice of application. Notice shall be published in the *Texas Register*. The presiding officer may require additional notice. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service area for which the applicant seeks eligibility, the proposed effective date of the designation, and the following statement: "Persons who wish to comment on this application should notify the Public Utility Commission of Texas by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136, or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477."

(B) Contents of application for each common carrier seeking ETC designation. A common carrier that seeks to be designated as an ETC shall file with the commission an application complying with the requirements of this

section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the commission's Regulatory Division and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:

- (i) show that the applicant offers each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c) (relating to Universal Service) either using its own facilities or a combination of its own facilities and resale of another carrier's services throughout the service area for which it seeks designation as an ETC;
- (ii) show that the applicant assumes the obligation to offer each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c) to any consumer in the service area for which it seeks designation as an ETC;
- (iii) show that the applicant advertises the availability of, and charges for, such services using media of general distribution;
- (iv) show the service area in which the applicant seeks designation as an ETC;
- (v) contain a statement detailing the method and content of the notice the applicant has provided or intends to provide to the public regarding the application and a brief statement explaining why the proposed notice is reasonable and in compliance with applicable law;

- (vi) contain a copy of the text of the notice;
 - (vii) contain the proposed effective date of the designation; and
 - (viii) contain any other information which the applicant wants considered in connection with the commission's review of its application.
- (C) Contents of application for each common carrier seeking ETC designation and receipt of federal universal service support. A common carrier that seeks to be designated as an ETC and receive federal universal service support shall file with the commission an application complying with the requirements of this section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the commission staff and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:
- (i) comply with the requirements of subparagraph (B) of this paragraph;
 - (ii) show that the applicant offers Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E; and
 - (iii) show that the applicant offers toll limitation services in accordance with 47 C.F.R. §54.400 and §54.401.
- (2) **Commission processing of application.**
- (A) Administrative review. An application considered under this section may be reviewed administratively unless the presiding officer, for good cause,

determines at any point during the review that the application should be docketed.

- (i) The effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later.
- (ii) The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application. The earliest possible effective date of the application shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter, any deadlines shall be determined from the 30th day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date.
- (iii) While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the telecommunications carrier. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the telecommunications carrier.

- (iv) No later than 20 days after the filing date of the application or the completion of notice, whichever is later, interested persons may provide the commission staff with written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding officer written comments or recommendations regarding the application.
 - (v) No later than 35 days after the proposed effective date of the application, the presiding officer shall issue an order approving, denying, or docketing the application.
- (B) Approval or denial of application.
- (i) An application filed pursuant to paragraph (1)(B) of this subsection shall be approved by the presiding officer if the application meets the following requirements:
 - (I) the provision of service constitutes the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c);
 - (II) the applicant will provide service using either its own facilities or a combination of its own facilities and resale of another carrier's services;
 - (III) the applicant advertises the availability of, and charges for, such services using media of general distribution;
 - (IV) notice was provided as required by this section;

- (V) the applicant satisfies the requirements contained in subsection (c) of this section; and
 - (VI) if, in areas served by a rural telephone company, the ETC designation is consistent with the public interest.
- (ii) An application filed pursuant to paragraph (1)(C) of this subsection shall be approved by the presiding officer if the application meets the following requirements:
- (I) the applicant has satisfied the requirements set forth in clause (i) of this subparagraph;
 - (II) the applicant offers Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E; and
 - (III) the applicant offers toll limitation services in accordance with 47 C.F.R. §54.400 and §54.401.
- (C) Docketing. If, based on the administrative review, the presiding officer determines that one or more of the requirements have not been met, the presiding officer shall docket the application.
- (D) Review of the application after docketing. If the application is docketed, the effective date of the application shall be automatically suspended to a date 120 days after the applicant has filed all of its direct testimony and exhibits, or 155 days after the proposed effective date, whichever is later. Three copies of all answers to requests for information shall be filed with the commission within ten days after receipt of the request. Affected

persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. A hearing on the merits shall be limited to issues of eligibility. The application shall be processed in accordance with the commission's rules applicable to docketed cases.

- (E) **Waiver.** In the event that an otherwise ETC requests additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation, the commission may grant a waiver of these service requirements upon a finding that exceptional circumstances prevent the carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period for the waiver shall not extend beyond the time that the commission deems necessary for that carrier to complete network upgrades to provide single-party service, access to enhanced 911 service, or toll limitation services.

- (i) **Designation of ETC for unserved areas.** If no common carrier will provide the services that are supported by federal universal service support mechanisms under 47 U.S.C. §254(c) to an unserved community or any portion thereof that requests such service, the commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

- (j) **Relinquishment of ETC designation.** A common carrier may seek to relinquish its ETC designation.
- (1) **Area served by more than one ETC.** The commission shall permit a common carrier to relinquish its designation as an ETC in any area served by more than one ETC upon:
- (A) written notification not less than 90 days prior to the proposed effective date that the common carrier seeks to relinquish its designation as an ETC;
 - (B) determination by the commission that the remaining eligible telecommunications carrier or carriers can offer federally supported services to the relinquishing carrier's customers; and
 - (C) determination by the commission that sufficient notice of relinquishment has been provided to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier or carriers.
- (2) **Area where the common carrier is the sole ETC.** In areas where the common carrier is the only ETC, the commission may permit it to relinquish its ETC designation upon:
- (A) written notification not less than 90 days prior to the proposed effective date that the common carrier seeks to relinquish its designation as an ETC;
and
 - (B) commission designation of a new ETC for the service area or areas.

- (k) **Rural and non-rural carriers' requirements for annual certification to receive FUSF support.** A common carrier serving a rural or non-rural study area shall comply with the following requirements for annual certification for the receipt of FUSF support.
- (1) **Annual certification.** Common carriers must provide the commission with an affidavit annually, on or before September 1st of each year, which certifies that the carrier is complying with the federal requirements for the receipt of FUSF support. Upon receipt and acceptance of the affidavits filed on or before September 1st each year, the commission will certify these carriers' eligibility for FUSF to the FCC and the Federal Universal Service Fund Administrator by October 1st each year.
 - (2) **Failure to file.** Common carriers failing to file an affidavit by September 1st may still be certified by the commission for annual FUSF. However, the carrier is ineligible for support until the quarter following the federal universal service administrator's receipt of the commission's supplemental submission of the carrier's compliance with the federal requirements.
 - (3) **Supplemental certification.** For carriers not subject to the annual certification process, the schedule set forth in 47 C.F.R. §54.313 and 47 C.F.R. §54.314(d) for the filing of supplemental certifications shall apply.
 - (4) **Recommendation for Revocation of FUSF support certification.** The commission may recommend the revocation of the FUSF support certification of any carrier that it determines has not complied with the federal requirements pursuant to 47 U.S.C. §254(e) and will review any challenge to a carrier's FUSF

support certification and make an appropriate recommendation as a result of any such review.

- (l) **Disaggregation of rural carriers' FUSF support.** Common carriers serving rural study areas must comply with the following requirements regarding disaggregation of FUSF support.
 - (1) **Election by May 15, 2002.** On or before May 15, 2002, all rural incumbent local exchange carriers (ILECs) may notify the commission of one of the following elections regarding FUSF support. This election will remain in place for four years from the effective date of certification, pursuant to 47 C.F.R. §54.315, unless the commission, on its own motion, or upon the motion of the rural ILEC or an interested party, requires a change to the elected disaggregation plan:
 - (A) a rural ILEC may choose to certify to the commission that it will not disaggregate at this time;
 - (B) a rural ILEC may seek disaggregation of its FUSF support by filing a targeted plan with the commission that meets the criteria in paragraph (3) of this subsection, subject to the commission's approval of the plan;
 - (C) a rural ILEC may self-certify a disaggregation targeted plan that meets the criteria in paragraphs (3) and (4) of this subsection, disaggregate support to the wire center level or up to no more than two cost zones, or mirror a plan for disaggregation that has received prior commission approval; or
 - (D) if the rural ILEC serves a study area that is served by another carrier designated as an ETC prior to the effective date of 47 C.F.R. §54.315,

(June 19, 2001), the ILEC may only self-certify the disaggregation of its FUSF support by adopting a plan for disaggregation that has received prior commission approval.

- (2) **Abstain from filing.** If a rural ILEC abstains from filing an election on or before May 15, 2002, the carrier will not be permitted to disaggregate its FUSF support unless it is ordered to do so by the commission pursuant to the terms of paragraph (5) of this subsection.
- (3) **Requirements for rural ILECs' disaggregation plans.** Pursuant to the federal requirements in 47 C.F.R. §54.315(e) a rural ILEC's disaggregation plan, whether submitted pursuant to paragraph (1)(B), (C) or (D) of this subsection, must meet the following requirements:
 - (A) the sum of the disaggregated annual support must be equal to the study area's total annual FUSF support amount without disaggregation;
 - (B) the ratio of the per line FUSF support between disaggregation zones for each disaggregated category of FUSF support shall remain fixed over time, except as changes are required pursuant to paragraph (5) of this subsection;
 - (C) the ratio of per line FUSF support shall be publicly available;
 - (D) the per line FUSF support amount for each disaggregated zone or wire center shall be recalculated whenever the rural ILEC's total annual FUSF support amount changes and revised total per line FUSF support and updated access line counts shall then be applied using the changed FUSF support amount and updated access line counts applicable at that point;

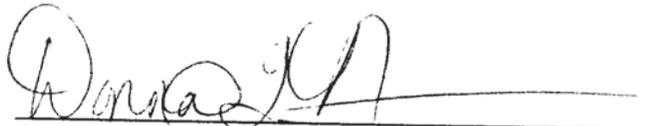
- (E) each support category complies with subparagraphs (A) and (B) of this paragraph;
 - (F) monthly payments of FUSF support shall be based upon the annual amount of FUSF support divided by 12 months if the rural ILEC's study area does not contain a competitive carrier designated as an ETC; and
 - (G) a rural ILEC's disaggregation plan methodology and the underlying access line count upon which it is based will apply to any competitive carrier designated as an ETC in the study area.
- (4) **Additional requirements for self-certification of a disaggregation plan.** Pursuant to 47 C.F.R. §54.315(d)(2), a rural ILEC's self-certified disaggregation plan must also include the following items in addition to those items required by paragraph (3) of this subsection:
- (A) support for, and a description of, the rationale used, including methods and data relied upon, as well as a discussion of how the plan meets the requirements in paragraph (3) of this subsection and this paragraph;
 - (B) a reasonable relationship between the cost of providing service for each disaggregation zone within each disaggregation category of support proposed;
 - (C) a clearly specified per-line level of FUSF support for each category pursuant to 47 C.F.R. §54.315(d)(2)(iii);
 - (D) if the plan uses a benchmark, a detailed explanation of the benchmark and how it was determined that is generally consistent with how the level of

- support for each category of costs was derived so that competitive ETCs may compare the disaggregated costs for each cost zone proposed; and
- (E) maps identifying the boundaries of the disaggregated zones within the study area.
- (5) **Disaggregation upon commission order.** The commission on its own motion or upon the motion of an interested party may order a rural ILEC to disaggregate FUSF support under the following criteria:
- (A) the commission determines that the public interest of the rural study area is best served by disaggregation of the rural ILEC's FUSF support;
- (B) the commission establishes the appropriate disaggregated level of FUSF support for the rural ILEC; or
- (C) changes in ownership or changes in state or federal regulation warrant the commission's action.
- (6) **Effective dates of disaggregation plans.** The effective date of a rural ILEC's disaggregation plan shall be as specified in 47 C.F.R. §54.315.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.418 relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds, is hereby adopted with no changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS on the 16th day of November 2012.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



ROLANDO PABLOS, COMMISSIONER

Attachment M

Affirmative Statement of the Virginia Corporation Commission

STATE CORPORATION COMMISSION DOCUMENT CONTROL

AT RICHMOND, APRIL 9, 2004

IN RE:

2004 APR -9 A 11:46

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC-2001-00263

For designation as an eligible
telecommunications provider under
47 U.S.C. § 214(e) (2)

ORDER INVITING COMMENTS AND/OR REQUESTS FOR HEARING

On December 21, 2001, Virginia Cellular LLC ("Virginia Cellular") filed an application with the State Corporation Commission ("Commission") for designation as an eligible telecommunications carrier ("ETC"). This was the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.¹ Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002. Our Order of April 9, 2002, found that § 214(e)(6) of the Act is applicable to Virginia Cellular's application because this Commission has not asserted jurisdiction over CMRS carriers and that Virginia Cellular should apply to the Federal Communications Commission ("FCC") for ETC designation.

Virginia Cellular filed its Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia with the FCC on April 26, 2002. On January 22, 2004, the FCC released its order designating Virginia Cellular as an ETC in specific portions of its licensed

¹ Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

service area in the Commonwealth of Virginia subject to certain conditions ("FCC's January 22, 2004, Order").²

The FCC's January 22, 2004, Order further stated that Virginia Cellular's request to redefine the service areas of Shenandoah Telephone Company ("Shentel") and MGW Telephone Company ("MGW") in Virginia pursuant to § 214(3)(5) of the Telecommunications Act of 1996 ("Act") was granted subject to the agreement of this Commission. On March 2, 2004, the FCC filed its January 22, 2004, Order as a petition in this case.³

Section 214(e)(5) of the Act states:

SERVICE AREA DEFINED. - The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In this instance, the FCC has determined that the service areas of Shentel and MGW, which are both rural telephone companies under the Act, should be redefined as requested by Virginia Cellular.⁴ The FCC further recognizes that the "Virginia Commission's first-hand knowledge of the rural areas in question uniquely qualifies it to determine the redefinition proposal and examine whether it should be approved."⁵

² CC Docket No. 96-45, *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*.

³ See paragraph 45 of the FCC's January 22, 2004, Order. The FCC, in accordance with § 54.207(d) of its rules, requests that the Virginia Commission treat this Order as a petition to redefine a service area under § 54.207(d)(1) of the FCC's rules. A copy of the petition can be obtained from the Commission's website at: <http://www.state.va.us/scc/caseinfo.htm>.

⁴ The FCC denied Virginia Cellular's request to redefine the study area of NTELOS. See paragraph 50 of the FCC's January 22, 2004, Order.

⁵ The FCC's January 24, 2004, Order at paragraph 2. (citations omitted)

The Commission finds that interested parties should be afforded the opportunity to comment and/or request a hearing regarding the FCC's petition to redefine the service areas of Shentel and MGW. We note that the FCC believes that its proposed redefinition of these service areas should not harm either Shentel or MGW.⁶ However, we request any interested party to specifically address in its comments whether our agreeing to the FCC's proposal to redefine the service areas of Shentel and MGW would harm these companies.

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that interested parties should be allowed to comment or request a hearing regarding the FCC's proposed redefinition of Shentel's and MGW's service areas.

Accordingly, IT IS ORDERED THAT:

(1) Any interested party desiring to comment regarding the redefinition of Shentel's and MGW's service areas may do so by directing such comments in writing on or before May 7, 2004, to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested parties desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

(2) On or before May 7, 2004, any interested party wishing to request a hearing regarding the redefinition of Shentel's and MGW's service areas shall file an original and fifteen (15) copies of its request for hearing in writing with the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUC-2001-00263 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter.

⁶ See paragraphs 43 and 44 of the FCC's January 22, 2004, Order.

(3) On or before June 1, 2004, interested parties may file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the comments and requests for hearing filed with the Commission. A copy of the response shall be delivered to any person who filed comments or requests for hearing.

(4) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: each local exchange telephone company licensed to do business in Virginia, as shown on Attachment A hereto; David A. LaFuria, Esquire, Lukas, Nace, Gutierrez & Sachs, Chartered, 1111 19th Street, N.W., Suite 1200, Washington, D.C. 20036; Thomas Buckley, Attorney-Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554; Virginia Telecommunications Industry Association, c/o Richard D. Gary, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; L. Ronald Smith, President and General Manager, Shenandoah Telephone Company, P.O. Box 105, Williamsville, Virginia 24487; Lori Warren, Director of Regulatory Affairs, MGW Telephone Company, P.O. Box 459, Edinburg, Virginia 22824-0459; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Communications, Public Utility Accounting, and Economics and Finance.

Attachment N

Coverage Area

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
AL	255181	SO CENTRAL BELL-AL	N
AL	259788	CENTURYTEL-AL-SOUTH	N
AL	259789	CENTURYTEL-AL-NORTH	N
AL	250282	BLOUNTSVILLE TEL CO	R
AL	250283	BRINDLEE MOUNTAIN	R
AL	250284	BUTLER TEL CO	R
AL	250285	CASTLEBERRY TEL CO	R
AL	250286	NATIONAL OF ALABAMA	R
AL	250290	FARMERS TELECOM COOP	R
AL	250295	GRACEBA TOTAL COMM	R
AL	250298	GULF TEL CO - AL	R
AL	250299	HAYNEVILLE TEL CO	R
AL	250300	HOPPER TELECOMM. CO.	R
AL	250301	FRONTIER-LAMAR CNTY	R
AL	250302	WINDSTREAM AL	R
AL	250304	MILLRY TEL CO	R
AL	250305	MON-CRE TEL COOP	R
AL	250306	FRONTIER COMM.-AL	R
AL	250307	MOUNDEVILLE TEL CO	R
AL	250308	NEW HOPE TEL COOP	R
AL	250311	OAKMAN TEL CO (TDS)	R
AL	250312	OTELCO TELEPHONE LLC	R
AL	250314	PEOPLES TEL CO	R
AL	250315	PINE BELT TEL CO	R
AL	250316	RAGLAND TEL CO	R
AL	250317	ROANOKE TEL CO	R
AL	250318	FRONTIER COMM-SOUTH	R
AL	250322	UNION SPRINGS TEL CO	R
CT	135200	SOUTHERN NEW ENGLAND	N
CT	132454	THE WOODBURY TEL CO	R
DC	575020	VERIZON WA, DC INC.	N
DE	565010	VERIZON DELAWARE INC	N
FL	210328	VERIZON FLORIDA	N
FL	215191	SOUTHERN BELL-FL	N
FL	210291	GTC, INC.	R
FL	210318	FRONTIER COMM-SOUTH	R
FL	210329	GTC, INC.	R
FL	210330	SMART CITY TEL LLC	R
FL	210331	ITS TELECOMM. SYS.	R
FL	210335	NORTHEAST FLORIDA	R
FL	210336	WINDSTREAM FL	R
FL	210338	QUINCY TEL CO-FL DIV	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
FL	210339	GTC, INC.	R
FL	210341	EMBARQ FLORIDA INC. FKA SPRINT	R
ME	100025	Maine Telephone Company (Fairpoint New England)	N
ME	105111	No. New England d/b/a Fairpoint Comm.	N
ME	100002	Oxford County Telephone	R
ME	100003	Lincolnton Networks, Inc.	R
ME	100003	Tidewater Telecom, inc.	R
ME	100004	China Telephone Company	R
ME	100005	Cobbosseecontee Tel.Co. & Tel. Co.	R
ME	100007	The Island Telephone Company	R
ME	100010	Hampden Telephone Co.	R
ME	100011	Hartland & St. Albans Tel. Co.	R
ME	100015	Community Service Tel.Co.	R
ME	100019	Oxford West Telephone Co.	R
ME	100020	Pine Tree Telephone LLC	R
ME	100022	Saco River Telephone LLC	R
ME	100024	Somerset Telephone Company	R
ME	100025	Standish Tel. Co.	R
ME	100027	Union River Telephone Company	R
ME	100029	Unitel, Inc.	R
ME	100031	Warren Telephone Company	R
ME	100034	West Penobscot Tel. & Tele. Company	R
ME	103313	Northland Telephone of ME, Inc.	R
ME	103313	Sidney Telephone Company	R
ME	103315	Mid-Maine Telecom LLC	R
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	N
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	N
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	N
NC	235193	SOUTHERN BELL-NC	N
NC	230468	ATLANTIC MEMBERSHIP	R
NC	230469	BARNARDSVILLE TEL CO	R
NC	230470	CAROLINA TEL & TEL	R
NC	230471	CENDEL OF NC	R
NC	230473	CITIZENS TEL CO	R
NC	230474	CONCORD TEL CO	R
NC	230476	WINDSTREAM NC	R
NC	230478	ELLERBE TEL CO	R
NC	230483	LEXCOM TELEPHONE CO.	R
NC	230485	MEBTEL, INC.	R
NC	230491	N.ST. DBA N. ST.COMM	R
NC	230494	PINEVILLE TEL CO	R
NC	230495	RANDOLPH TEL CO	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
NC	230496	RANDOLPH MEMBERSHIP	R
NC	230497	PIEDMONT MEMBERSHIP	R
NC	230498	SALUDA MOUNTAIN TEL	R
NC	230500	SERVICE TEL CO	R
NC	230501	SKYLINE MEMBERSHIP	R
NC	230502	STAR MEMBERSHIP CORP	R
NC	230503	SURRY MEMBERSHIP	R
NC	230505	TRI COUNTY TEL MEMBR	R
NC	230510	WILKES MEMBERSHIP	R
NC	230511	YADKIN VALLEY TEL	R
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	N
NH	120038	BRETTON WOODS TEL CO	R
NH	120039	GRANITE STATE TEL	R
NH	120042	DIXVILLE TEL CO	R
NH	120043	DUNBARTON TEL CO	R
NH	120045	KEARSARGE TEL CO	R
NH	120047	MERRIMACK COUNTY TEL	R
NH	120049	UNION TEL CO	R
NH	120050	WILTON TEL CO - NH	R
NH	123321	MERRIMACK CO. TELEPHONE DBA CONTOOCOOK	R
NH	123321	HOLLIS TELEPHONE COMPANY, INC.	R
NY	150121	FRONTIER-ROCHESTER	N
NY	155130	VERIZON NEW YORK	N
NY	150071	ARMSTRONG TEL CO-NY	R
NY	150072	FRONTIER-AUSABLE VAL	R
NY	150073	BERKSHIRE TEL CORP	R
NY	150076	CASSADAGA TEL CORP	R
NY	150077	CHAMPLAIN TEL CO	R
NY	150078	CHAUTAUQUA & ERIE	R
NY	150079	CHAZY & WESTPORT	R
NY	150081	CITIZENS HAMMOND NY	R
NY	150084	TACONIC TEL CORP	R
NY	150085	CROWN POINT TEL CORP	R
NY	150088	DELHI TEL CO	R
NY	150089	DEPOSIT TEL CO	R
NY	150091	DUNKIRK & FREDONIA	R
NY	150092	EDWARDS TEL CO	R
NY	150093	EMPIRE TEL CORP	R
NY	150095	FISHERS ISLAND TEL	R
NY	150097	GERMANTOWN TEL CO	R
NY	150099	HANCOCK TEL CO	R
NY	150100	FRONTIER COMM OF NY	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
NY	150104	MARGARETVILLE TEL CO	R
NY	150105	MIDDLEBURGH TEL CO	R
NY	150106	WINDSTREAM NY-FULTON	R
NY	150107	NEWPORT TEL CO	R
NY	150108	NICHOLVILLE TEL CO	R
NY	150109	WINDSTREAM-JAMESTOWN	R
NY	150110	OGDEN TEL DBA FRNTER	R
NY	150111	ONEIDA COUNTY RURAL	R
NY	150112	ONTARIO TEL CO, INC.	R
NY	150113	WINDSTREAM RED JACKT	R
NY	150114	ORISKANY FALLS TEL	R
NY	150116	PATTERSONVILLE TEL	R
NY	150118	PORT BYRON TEL CO	R
NY	150121	FRONTIER-ROCHESTER	R
NY	150122	FRONTIER-SENECA GORH	R
NY	150125	STATE TEL CO	R
NY	150128	FRONTIER-SYLVAN LAKE	R
NY	150129	TOWNSHIP TEL CO	R
NY	150131	TRUMANSBURG TEL CO.	R
NY	150133	VERNON TEL CO	R
NY	150135	WARWICK VALLEY-NY	R
NY	154532	CITIZENS-FRONTIER-NY	R
NY	154533	CITIZENS-FRONTIER-NY	R
NY	154534	CITIZENS-FRONTIER-NY	R
TN	295185	SO. CENTRAL BELL -TN	N
TN	290280	ARDMORE TEL CO	R
TN	290552	CENTURYTEL-ADAMSVILL	R
TN	290553	BEN LOMAND RURAL	R
TN	290554	BLEDSON TEL COOP	R
TN	290557	CENTURY-CLAIBORNE	R
TN	290559	CONCORD TEL EXCHANGE	R
TN	290561	CROCKETT TEL CO	R
TN	290562	DEKALB TEL COOP	R
TN	290565	HIGHLAND TEL COOP-TN	R
TN	290566	HUMPHREY'S COUNTY	R
TN	290567	UNITED INTER-MT-TN	R
TN	290570	LORETTO TEL CO	R
TN	290571	MILLINGTON TEL CO	R
TN	290573	NORTH CENTRAL COOP	R
TN	290574	CENTURYTEL-OOLTEWAH	R
TN	290575	TENNESSEE TEL CO	R
TN	290576	PEOPLES TEL CO	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
TN	290578	TELLICO TEL CO	R
TN	290579	TWIN LAKES TEL COOP	R
TN	290580	CTZENS-FRNTR-VOL ST	R
TN	290581	UTC OF TN	R
TN	290583	WEST TENNESSEE TEL	R
TN	290584	YORKVILLE TEL COOP	R
TN	290598	WEST KENTUCKY RURAL TELEPHONE	R
TN	294336	CITIZENS-FRONTIER-TN	R
TX	442080	VERIZON-WEST	N
TX	442154	VERIZON-WEST	N
TX	445216	SOUTHWESTERN BELL	N
TX	432016	PANHANDLE TEL. COOP. INC.	R
TX	440425	CAMERON TELEPHONE CO.	R
TX	441163	VALOR TELECOMM TX DBA WINDSTREAM COMM SW	R
TX	442038	BIG BEND TELEPHONE CO., INC.	R
TX	442038	BLOSSOM TELEPHONE CO.	R
TX	442040	BRAZORIA TELEPHONE CO.	R
TX	442041	BRAZOS TELECOMMUNICATIONS, INC.	R
TX	442041	BRAZOS TELEPHONE COOPERATIVE, INC.	R
TX	442043	NORTH TEXAS TELEPHONE CO.	R
TX	442046	CAP ROCK TELEPHONE COOPERATIVE	R
TX	442052	CENTRAL TEXAS TELEPHONE COOPERATIVE, INC.	R
TX	442057	COLEMAN COUNTY TELEPHONE COOPERATIVE, INC.	R
TX	442059	COLORADO VALLEY TELEPHONE COOPERATIVE, INC.	R
TX	442060	TOTELCOM COMMUNICATIONS, LLC	R
TX	442061	COMMUNITY TELEPHONE CO.	R
TX	442065	CUMBY TELEPHONE COOPERATIVE, INC.	R
TX	442066	DELL TELEPHONE CO-OP., INC.	R
TX	442068	EASTEX TELEPHONE COOPERATIVE, INC.	R
TX	442069	ELECTRA TELEPHONE CO. , INC.	R
TX	442070	ETEX TELEPHONE COOPERATIVE, INC.	R
TX	442071	FIVE AREA TELEPHONE COOPERATIVE, INC.	R
TX	442071	WEST PLAINS TELECOMMUNICATIONS, INC.	R
TX	442072	CONSOLIDATED COMMUNICATIONS OF FORT BEND COMPANY	R
TX	442073	BORDER TO BORDER COMMUNICATIONS	R
TX	442076	GANADO TELEPHONE CO., INC.	R
TX	442083	GUADALUPE VALLEY TELEPHONE COOPERATIVE, INC.	R
TX	442084	UNITED TELEPHONE OF TEXAS INC DBA CENTURYLINK	R
TX	442086	HILL COUNTRY TELEPHONE COOPERATIVE, INC.	R
TX	442090	ALENCO COMMUNICATIONS, INC.	R
TX	442091	ETS TELEPHONE COMPANY, INC.	R
TX	442093	INDUSTRY TELEPHONE CO.	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
TX	442097	WINDSTREAM COMMUNICATIONS KERRVILLE, L.P.	R
TX	442101	CENTRAL TEL. CO. OF TEXAS DBA CENTURYLINK	R
TX	442101	CENTURYTEL OF LAKE DALLAS, INC. DBA CENTURYLINK	R
TX	442103	LA WARD TELEPHONE EXCHANGE, INC.	R
TX	442104	LAKE LIVINGSTON TELEPHONE COMPANY	R
TX	442105	LIPAN TELEPHONE CO.	R
TX	442109	CONSOLIDATED COMMUNICATIONS OF TEXAS COMPANY	R
TX	442112	MID-PLAINS RURAL TELEPHONE COOPERATIVE, INC.	R
TX	442116	MUENSTER TELEPHONE CORP. OF TEXAS DBA NORTEX COMM	R
TX	442117	CENTURYTEL OF PORT ARANSAS, INC. DBA CENTURYLINK	R
TX	442130	PEOPLES TELEPHONE COOPERATIVE	R
TX	442131	POKA - LAMBRO TELEPHONE COOPERATIVE, INC.	R
TX	442134	RIVIERA TELEPHONE CO., INC.	R
TX	442135	SOUTHWEST TEXAS TELEPHONE CO.	R
TX	442140	CENTURYTEL OF SAN MARCOS, INC. DBA CENTURYLINK	R
TX	442141	SANTA ROSA TELEPHONE COOPERATIVE, INC.	R
TX	442143	SOUTH PLAINS TELEPHONE COOPERATIVE, INC.	R
TX	442147	WINDSTREAM SUGAR LAND, INC.	R
TX	442150	TATUM TELEPHONE CO.	R
TX	442151	TAYLOR TELEPHONE COOPERATIVE, INC.	R
TX	442153	TEXAS WINDSTREAM, INC.	R
TX	442159	VALLEY TELEPHONE COOPERATIVE, INC.	R
TX	442166	WEST TEXAS RURAL TELEPHONE COOPERATIVE, INC.	R
TX	442168	WES - TEX TELEPHONE COOPERATIVE, INC.	R
TX	442170	XIT RURAL TELEPHONE COOPERATIVE, INC	R
TX	442262	E.N.M.R. TELEPHONE COOPERATIVE	R
VA	190233	VERIZON S-VA(CONTEL)	N
VA	195040	VERIZON VIRGINIA INC	N
VA	190217	AMELIA TEL CORP	R
VA	190219	BUGGS ISLAND COOP	R
VA	190220	BURKE'S GARDEN TEL	R
VA	190225	CITIZENS TEL COOP	R
VA	190226	NTELOS, INC.	R
VA	190237	HIGHLAND TEL COOP	R
VA	190238	MGW TEL. CO. INC.	R
VA	190239	NEW HOPE TEL COOP	R
VA	190243	PEMBROKE TEL COOP	R
VA	190244	PEOPLES MUTUAL TEL	R
VA	190248	SCOTT COUNTY COOP	R
VA	190249	ROANOKE & BOTETOURT	R
VA	190250	SHENANDOAH TEL CO	R
VA	190253	VIRGINIA TEL CO	R

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
VA	190254	CENDEL OF VIRGINIA	R
VA	190479	VERIZON SOUTH-VA	R
VA	190567	UNITED INTER-MT-VA	R
VA	193029	NEW CASTLE TEL. CO.	R
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	R

Attachment O

Excess Telecom, Inc.'s Compliance Plan

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April 16, 2015

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street
Washington, D.C. 20554

Re: Excess Telecom, Inc.
Compliance Plan
WC Docket No. 09-197 & WC Docket No. 11-42

Dear Ms. Dortch:

Pursuant to the Federal Communications Commission Order *In the Matter of Lifeline and Link Up Reform and Modernization* released February 6, 2012, attached please find Excess Telecom, Inc.'s Compliance Plan. The attached Compliance Plan revises and replaces in its entirety the version filed on April 6, 2015.

If you have any questions or if I may provide you with additional information, please do not hesitate to contact me. Thank you for your assistance.

Respectfully submitted,

/s/ Lance J.M. Steinhart

Lance J.M. Steinhart
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys for Excess Telecom, Inc.

Attachments

cc: Cobby Pourtavosi

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	
)	
Telecommunications Carriers Eligible for)	WC Docket No. 09-197
Universal Service Support)	
)	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization)	
)	
Excess Telecom, Inc.)	
Compliance Plan)	

EXCESS TELECOM, INC. COMPLIANCE PLAN

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April 16, 2015

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	
)	
Telecommunications Carriers Eligible for)	WC Docket No. 09-197
Universal Service Support)	
)	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization)	
)	
Excess Telecom, Inc.)	
Compliance Plan)	

EXCESS TELECOM, INC. COMPLIANCE PLAN

I. INTRODUCTION

Excess Telecom, Inc. (“Excess Telecom” or the “Company”) is a prepaid wireless telecommunications carrier seeking designation as an Eligible Telecommunications Carrier (“ETC”) solely for the purpose of participating in the Lifeline program. As discussed in section IV below, Excess Telecom is uniquely positioned to offer Lifeline service, which will serve as a complement to the Company’s business model as a whole and not the Company’s only source of revenue. Although Section 214(e)(1)(A) of the Act requires an ETC to offer USF-supported services to some extent over its own facilities, the Federal Communications Commission (“FCC” or “Commission”) has forborne from that requirement for carriers that are, or seek to become, Lifeline-only ETCs.¹ Excess Telecom will avail itself of the FCC’s conditional grant of forbearance and, by its attorney, hereby files its Compliance Plan outlining the measures it will take to implement the conditions of

¹ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Order*”).

forbearance outlined in the *Order*.² Given the severe economic environment that is forcing many low-income customers to forego wireless service, Excess Telecom respectfully requests expeditious approval of this plan so that the Company, upon designation as an ETC, may quickly deploy much-needed Lifeline services to qualified low-income customers.

II. BACKGROUND

In the *Order*, the Commission granted forbearance from the “own-facilities” requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:³

(1) the carrier must comply with certain 911 requirements [(a) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; (b) providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services; and (c) complying with conditions (a) and (b) starting on the effective date of this Order]; and

(2) the carrier must file, and the Bureau must approve, a compliance plan that: (a) outlines the measures the carrier will take to implement the obligations contained in this Order, including but not limited to the procedures the ETC follows in enrolling a subscriber in Lifeline and submitting for reimbursement for that subscriber from the Fund, materials related to initial and ongoing certifications and sample marketing materials, as well as further safeguards against waste, fraud and abuse the Bureau may deem necessary; and (b) provides a detailed description of how the carrier offers service, the geographic areas in which it offers service, and a description of the carrier’s various Lifeline service plan offerings, including subscriber rates, number of minutes included and types of plans available.

III. EXCESS TELECOM WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE ORDER

Excess Telecom will comply with all conditions set forth in the *Order*, the provision of this

² Although the Company qualifies for and seeks to avail itself of the Commission’s grant of forbearance from the facilities requirement of section 214(e)(1)(A), the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state, particularly for purposes of state universal service funding under state program rules and requirements. The Company will follow the requirements of the Commission’s Lifeline rules and this Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low-Income fund.

³ See *Order* at ¶¶ 368, 373 and 379.

Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout the United States.⁴

A. Access to 911 and E911 Services

In the *Order*, the Commission requires Excess Telecom to provide its Lifeline customers with access to 911 and E911 services, regardless of activation status and availability of minutes.⁵ The Commission and consumers are hereby assured that all Excess Telecom customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from Excess Telecom handsets even if the account associated with the handset has no minutes remaining.

B. E911-Compliant Handsets

The Commission also conditioned its grant of forbearance determination on Excess Telecom providing only E911-compliant handsets to its Lifeline customers.⁶ Excess Telecom will ensure that all handsets used in connection with the Company's Lifeline service offering are E911-compliant. In the event that an existing Excess Telecom customer does not have an E911-compliant handset, the Company will replace it with a 911/E911-compliant handset at no charge to the customer. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well.

C. Consumer Eligibility and Enrollment

Excess Telecom will certify and verify consumer eligibility for Lifeline in accordance with the requirements set forth in the *Order*. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer

⁴ To the extent that future changes in federal regulations render the commitments herein invalid, the Company reserves the right to modify its operations in accordance with federal regulations in effect at that time.

⁵ See *Order* at ¶ 373.

⁶ See *id.*

eligibility, Excess Telecom will rely on the state identification or database.⁷ In instances where Excess Telecom is responsible for the initial determination and annual recertification of consumer eligibility, the Company will follow the procedures set forth below.

1. One-Per-Household

Excess Telecom understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as “any individual or group of individuals who are living together at the same address as one economic unit.”⁸ Upon receiving an application for Lifeline support, Excess Telecom will check the National Lifeline Accountability Database (“NLAD”) to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. Excess Telecom will also search its own internal database of active customers, real-time, pre-sale, to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If Excess Telecom determines that an individual at the applicant’s address is currently receiving Lifeline-supported service, Excess Telecom will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, Excess Telecom will require applicants to complete and submit to the Company USAC’s one-per-household template, which will contain the following: (1) an explanation of the Commission’s one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant’s household and share in the household’s expenses or benefit from the applicant’s income; and (4) the penalty for a consumer’s failure to make the required one-per-household

⁷ See Order at ¶ 98.

⁸ See Order at ¶ 74.

certification (i.e., de-enrollment).⁹ Excess Telecom will deny the Lifeline application of any individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

On its certification forms, a draft sample of which is attached,¹⁰ Excess Telecom will obtain a consumer's permanent residential address (which cannot be a P.O. Box or General Delivery address), unless they only have a temporary address, and a billing address for the service, if different (which may include a P.O. Box or General Delivery address).¹¹ Excess Telecom will inquire on its certification forms whether or not the applicant's address is a temporary one.¹² If and when the 90-day verification rules become effective, Excess Telecom will notify the consumer that if they have a temporary address, the Company will contact the consumer every 90 days, by phone or text, to verify that he or she continues to rely on that address, and that if the consumer fails to respond within 30 days of Excess Telecom's attempt to verify the temporary address, he or she will be de-enrolled from the Lifeline program.¹³ Also on its certification forms, Excess Telecom will explain that if the subscriber moves, they must provide their new address to the Company within 30 days of moving.¹⁴ If the subscriber has moved, Excess Telecom will update the NLAD with the information within 10 business days of receipt of the information.¹⁵

As detailed below, Excess Telecom's certification form will clearly explain the one-per-household requirement and all consumers must certify that they receive Lifeline support for a

⁹ See Order at ¶ 78.

¹⁰ See Exhibit A. The draft form remains subject to change, but substantially reflects the content of the Company's application.

¹¹ See Order at ¶ 85.

¹² See Order at ¶ 89.

¹³ See *id.* As of the date of filing of this Compliance Plan, this requirement has not been approved pursuant to the Paperwork Reduction Act.

¹⁴ See Order at ¶ 85.

¹⁵ See *id.*

single subscription per household.

2. Initial and Annual Certification

Consumers will be signed up in person or directed, via company literature, collateral or advertising, to a toll-free telephone number and to the Company website, which will provide information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Excess Telecom's application form will identify that it is a "Lifeline" application. Excess Telecom will provide Lifeline-specific training to all personnel, whether employees, agents or representatives, that interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services.

Excess Telecom's initial and annual certification forms will conform to the list of requirements provided in the *Order*, Appendix C and with C.F.R. § 54.410(d), as amended. Excess Telecom's Lifeline certification forms, a draft sample of which is attached as Exhibit A, will require each prospective subscriber to provide the following information:

- (i) The subscriber's full name;
- (ii) The subscriber's full residential address;
- (iii) Whether the subscriber's residential address is permanent or temporary;
- (iv) The subscriber's billing address, if different from the subscriber's residential address;
- (v) The subscriber's date of birth;
- (vi) The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
- (vii) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and
- (viii) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in his or her household.

The certification forms will also explain in clear, easily understandable language that:

- (i) Lifeline is a federal benefit;
- (ii) Lifeline service is available for only one line per household;
- (iii) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and

expenses;

(iv) households are not permitted to receive benefits from multiple providers;

(v) that violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and

(vi) a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

Excess Telecom will require all consumers, at sign up and annually thereafter, to certify under penalty of perjury that:

(i) The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409;

(ii) The subscriber will notify the carrier within 30 days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit.

(iii) If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in 54.400(e);

(iv) If the subscriber moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within 30 days;

(v) If the subscriber provided a temporary residential address, he or she will be required to verify his or her temporary residential address every 90 days;

(vi) The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;

(vii) The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge,

(viii) The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and

(ix) The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits pursuant to § 54.405(e)(4).

Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements. Consumers who do not complete the application process in person must return the signed application and support documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures, including Interactive Voice Response (IVR) recordings, that

meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.¹⁶

Enrollment Compliance Platform. Excess Telecom has partnered with CGM, LLC (“CGM”), a premier Lifeline Service Bureau, for assistance with Lifeline compliance in general and with enrollment in particular. CGM, whose motto is “Credibility through Compliance,” was founded in 1997 and is well-respected in the industry among carriers and regulators alike. Excess Telecom will utilize CGM’s Real-Time Enrollment Compliance Platform (“CGM App”) to process Lifeline applications. The CGM App is fully bonded with the NLAD and numerous state databases, and allows the ETC to ensure that every activation is performed in a 100% compliant manner. See Exhibit B for a summary of the enrollment process using the CGM App.

Enrollment in person. Excess Telecom will seek to enroll Lifeline customers in person by creating a presence at social service locations, community events (such as flea markets and festivals), and retail locations (such as independent wireless stores and cell phone repair stores) that typically have a high turnout of Lifeline-eligible consumers. Excess Telecom will advertise its presence at these events and locations in advance. Tent events will consist of a 10 X 10 tent that will be set up outside a retail location after an approval has been made by the owner/operator of the property. The tent will contain signage that includes Excess Telecom company name, eligibility programs that will qualify a customer, one-per-household disclaimers and the types of phone service plans that are available. There will also be an informational brochure available at every tent event that a customer can take with them whether they choose to enroll in Excess Telecom’s service or not. Table setups will be used for both indoor events & tent events. They will consist of a table with banners or signage that displays the Excess Telecom company name, web address, toll free number and Excess Telecom service offerings. All materials, rates, terms and conditions, disclosures, and

¹⁶ See *Order* at ¶ 168.

copies of applications will be available to consumers prior to applying for Excess Telecom Lifeline service. Excess Telecom representatives will discuss the Lifeline program requirements, disclosures, eligibility requirements, and terms and conditions of Excess Telecom service with consumers as well as answer any additional questions consumers may have.

When a prospective customer applies in person, Company employees, agents or representatives (“personnel”) will be equipped with a portable electronic device (i.e. tablet) in order to utilize the CGM App. Personnel will ask to see a government issued ID to confirm the applicant is who they claim to be, and the CGM App will validate the address via a USPS/Melissa Database. The CGM App will check the NLAD to confirm that the applicant is not already receiving a Lifeline subsidy from Excess Telecom or any other ETC. If the customer indicates on the application form that their address is a multi-household residence, the CGM App will require the applicant to complete USAC’s one-per-household template as well. In cases where an eligibility database exists, the CGM App will query the database to determine eligibility. In states where eligibility databases are not available, the applicant is required to provide proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. The CGM App will require personnel to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps) and a unique identifier (last 3 digits of document ID). Eligibility documents are returned to the customer after review. Finally, the CGM App will prompt Excess Telecom personnel to verbally review all certifications and disclosures with the applicant before they sign the application form, making sure the applicant verbally acknowledges each required certification before moving on to the next.

Excess Telecom recognizes that any phone that is given to a consumer that is not eligible for

Lifeline reimbursement costs the company valuable resources, and every possible effort will be made to prevent any unauthorized persons from receiving a free phone or subsidized Lifeline service from the Company. Upon successful completion of the certification process, the Lifeline-eligible customer is allowed to receive their free phone in person. In instances where eligibility databases cannot be accessed in real-time, Excess Telecom will mail the phone via traceable delivery to eligible customers once verification of eligibility is complete. Customers will be instructed to contact Excess Telecom customer service and provide their unique customer ID (i.e. PIN or last four of SSN) in order to authenticate and activate their Lifeline service.

Enrollment online. Excess Telecom will also rely heavily upon television, radio and social media advertising intended to drive prospective customers to the Company's website for online enrollment. Excess Telecom will utilize the CGM App for online enrollment as well. When prospective customers fill out their information online using the CGM App, it will automatically run the necessary database checks (USPS/Melissa, NLAD, eligibility databases). The CGM App highlights each certification that is required and requires consumers to acknowledge each certification before moving on to the next field.¹⁷ If the customer indicates that their address is a multi-household residence, the CGM App will require the applicant to complete USAC's one-per-household template as well. If no eligibility database is available, the CGM App will advise the applicant that they are required to provide proof of identity and verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to the Company as well as what documentation qualifies as proof of benefits. The application will be placed in a "hold" status until the Company receives copies of the applicant's proof documentation and government-issued ID. Unless and until FCC rules permit retention of proof documentation, Company personnel will review the documentation

¹⁷ See *Order* at ¶ 123.

and record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps) and a unique identifier (last 3 digits of document ID), and destroy copies of proof documentation. Excess Telecom will mail the phone via traceable delivery to eligible customers once verification of eligibility is complete. Customers will be instructed to contact Excess Telecom customer service and provide their unique customer ID (i.e. PIN or last four of SSN) in order to authenticate and activate their Lifeline service.

General Enrollment Procedures. Excess Telecom will determine eligibility utilizing the income and program criteria currently utilized by federal default states (47 C.F.R. § 54.409(a),(b)), as well as any additional state-specific criteria. Prior to enrolling a new subscriber, Excess Telecom will check the eligibility of low-income consumers first by accessing state or federal social services electronic eligibility databases, where available.¹⁸ If a database is used to establish eligibility, Excess Telecom will not require documentation of the consumer's participation in a qualifying federal program; instead, Excess Telecom or its representative will note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.¹⁹ However, in states where there is no state administrator, the state commission or other state agency is not making eligibility determinations, and there is no automated means for Excess Telecom to check electronic databases for eligibility, Excess Telecom will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.²⁰ Excess Telecom will require acceptable documentation both for income eligibility and for program eligibility. In accordance with FCC rules, the Company will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or

¹⁸ See Order at ¶ 97.

¹⁹ See Order at ¶ 98.

²⁰ See Order at ¶ 99.

her eligibility.²¹ Excess Telecom understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases Excess Telecom remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.²²

Excess Telecom will provide Lifeline-specific training to all personnel – employees, agents, and representatives – designed to give them an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a customer's eligibility to participate in the Lifeline program under the Commission's rules. No Company employee, agent, or representative may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Among other things, the Lifeline program training discusses the Company's Lifeline application form (see Exhibit A) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate the ability of employees, agents, or representatives to explain each item contained therein and answer any customer questions. Personnel will also be trained to use the CGM App, which combines CGM's compliance expertise with leading technology to efficiently prompt the user through a compliant electronic application process. The CGM App is more effective than an error-prone manual process and is constructed to inherently safeguard against fraud by agent or applicant.

Because the Company is responsible for the actions of all its personnel, including those enrolling customers in any Company-owned or agent retail locations, and a Company employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company always “deals directly” with its

²¹ See *Order* at ¶ 101. Excess Telecom will retain copies of proof documentation in the event that FCC rules are revised to allow for or require retention.

²² See *Order* at ¶ 110.

customers to certify and verify customers' Lifeline eligibility.

3. Annual Re-Certification

Excess Telecom understands that it must annually re-certify the eligibility of its entire Lifeline subscriber base and report the results to USAC by January 31 each year, and the Company may elect to perform this re-certification on a rolling basis throughout the year.²³ Excess Telecom will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.²⁴ The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact the Company. Excess Telecom will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended, as detailed in section C.2 above. The Company will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Excess Telecom understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more of such options for its certifications.²⁵

Alternatively, where a database containing consumer eligibility data is available, Excess Telecom (or state agency or third-party, where applicable) will instead query the database and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the state data, Excess Telecom will contact the subscriber every year during the annual certification process to obtain a valid

²³ See *Order* at ¶ 130.

²⁴ See *id.*

²⁵ See *Order* at ¶ 132.

address.²⁶ Excess Telecom understands that it has the option to elect USAC to administer the self-certification process on the Company's behalf.²⁷

Excess Telecom will certify its compliance with Commission rules on an annual Lifeline eligible telecommunications carrier certification form and when submitting FCC Forms 497 to USAC for reimbursement. As part of Excess Telecom's submission of re-certification data pursuant to 47 C.F.R. § 54.416, an officer of the Company will certify annually to USAC:

(1) that the Company has procedures in place to review consumers' documentation of income-and program-based eligibility. In instances where the Company confirms consumer eligibility by relying on official program eligibility data, such as a state or federal database, an officer of the Company will attest to what data the Company uses to confirm consumer eligibility in each state, and

(2) that the Company is in compliance with all federal Lifeline certification procedures.²⁸

D. Other Reforms to Eliminate Waste, Fraud and Abuse

Excess Telecom shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent Company customers from engaging in such abuse of the program, inadvertently or intentionally.

Excess Telecom has implemented enrollment procedures designed to prevent subsidies for duplicate, ineligible, or inactive subscribers. The Company contracts with a third party Lifeline service bureau, currently CGM, LLC of Roswell, Georgia, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month

²⁶ See Order at ¶ 131.

²⁷ See Order at ¶ 133.

²⁸ See Order at ¶ 126-27.

Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described herein, Excess Telecom ensures that it does not over-request from support funds.

During the Lifeline application process, the Company details all required disclosures with the applicant, including the one-per-household rule. As detailed in section III.C.2, Excess Telecom validates each applicant's identity via a government issued ID card, passport, etc. Additionally, as mentioned above, Excess Telecom requires the applicant to provide their date of birth (DOB) and last four digits of their social security number (SSN). Requiring DOB and SSN ensures that neither the applicant nor the Company representative can forge certification forms based on false names and addresses. Excess Telecom validates the applicant's address via a USPS/Melissa Database to ensure the address is correct. Excess Telecom also verifies that the applicant is eligible to receive the Lifeline subsidy. To do this, Excess Telecom checks the NLAD and any available eligibility database. If an eligibility database is not available, the applicant is required to provide proof of eligibility. This prevents ineligible applicants or duplicate subscribers from receiving the subsidy.

1. National Lifeline Accountability Database

Excess Telecom will participate in the NLAD. Excess Telecom will query the NLAD to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Fund.²⁹ As required by the *Order*, Excess Telecom will provide to the NLAD subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date

²⁹ See *Order* at ¶ 203.

(when applicable), and amount of federal Lifeline support being sought for that subscriber.³⁰

Furthermore, on its certification form, Excess Telecom will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to USAC (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.³¹

2. Subscriber Usage

Excess Telecom will not seek reimbursement from the USF for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, Excess Telecom will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.³² Excess Telecom will notify its subscribers at service initiation, via the certification form and via script that is reviewed with every customer, about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.³³ An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.³⁴ Excess Telecom utilizes tracking software to notify the customer if the customer has not used their service for more than 30 or 60 consecutive days. Furthermore, a

³⁰ See Order at ¶ 189.

³¹ See Order, Appendix C.

³² See Order at ¶ 257.

³³ See *id.*

³⁴ See Order at ¶ 261.

third party contractor validates the Company's subsidy data to prevent a subsidy request for customers that are inactive under the Company's non-usage policy.³⁵ After notification, if the customer fails to use the phone, it is automatically de-enrolled pursuant to the procedures outlined in section E below. Excess Telecom will continue to comply with applicable public safety, including transmitting 911 calls to the appropriate PSAP even if the Company is no longer providing Lifeline service to a consumer.³⁶

3. Marketing & Outreach

Excess Telecom will implement the measures outlined herein to help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the limitations of the program, so as to prevent duplicative or otherwise ineligible service as well as other forms of waste, fraud, and abuse. Excess Telecom will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service:³⁷ (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. Excess Telecom's website and printed collateral will explain the documentation necessary for enrollment, and the details of Excess Telecom's plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can

³⁵ CGM, LLC is currently the Company's third party contractor.

³⁶ See *Order* at ¶ 262. 911 transmission will actually be performed by the Company's underlying facilities-based CMRS provider.

³⁷ See Exhibit C for a sample advertisement. The Company understands the term "marketing materials" includes materials in all media, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the Lifeline-supported service offering, including application and certification forms. See *Order* at ¶ 275.

be punished by fine or imprisonment or can be barred from the program.³⁸ For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, Excess Telecom will include the URL link for its website where disclosures will be listed. Additionally, Excess Telecom will disclose the company name under which it does business.³⁹

4. Audits

The *Order* requires ETCs that draw \$5 million or more in the aggregate on an annual basis from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, to hire an independent licensed certified public accounting firm to conduct a biennial audit according to government accounting standards to assess the ETC's overall compliance with the program's requirements.⁴⁰ Excess Telecom will comply with this requirement, including applicable rules regarding the dissemination of audit findings to the Commission, USAC, and relevant state and Tribal governments within 30 days upon issuance.⁴¹

E. De-Enrollment

If at any time an Excess Telecom Lifeline customer wishes to de-enroll from the Company's Lifeline program, Company customer service representatives will handle such elective de-enrollment requests. Excess Telecom Lifeline customers simply call the Company, via 611 or the toll-free customer service number, and they can speak to a live operator to de-enroll from Excess Telecom's Lifeline program. Excess Telecom will de-enroll consumers from the Company's Lifeline program in the following instances, according to C.F.R. § 54.405(e):

³⁸ See *Order* at ¶ 275.

³⁹ See *id.*

⁴⁰ See *Order* at ¶ 291.

⁴¹ See *Order* at ¶ 294.

Ineligibility. Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).⁴² If a customer does not respond to the Company's annual verification survey within 30 days, or if Excess Telecom has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs the Company or the state that he or she is ineligible for Lifeline), Excess Telecom will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.⁴³ Similarly, Excess Telecom will de-enroll a subscriber if they fail to respond to the Company's attempt to verify a temporary address within 30 days.⁴⁴

Duplicative Support. Subject to USAC's Duplicate Resolution Process and anticipated Duplicate Scrubbing Process,⁴⁵ Excess Telecom will de-enroll a subscriber within 5 business days if the Company is informed by USAC that the subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service.

Non-Usage. Excess Telecom will de-enroll any subscriber that has not used the Company's Lifeline service for 60 consecutive days, as discussed in section IV.B above. Excess Telecom will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in

⁴² See Order at ¶ 122.

⁴³ See *id.* In states that have dispute resolution procedures applicable to Lifeline termination, the Company will comply with the state requirements.

⁴⁴ See Order at ¶ 89.

⁴⁵ See Order at ¶ 214-16.

service termination for non-usage; such notice may be initiated after 30-days of non-usage. Excess Telecom will update the NLAD within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.⁴⁶

F. Additional Rule Amendments

1. Terms and Conditions of Service

The Company's Lifeline offering is summarized in section IV.C below. The Company's terms and conditions of service are subject to change as needed, and the most current version will be maintained on the Company's website.

2. Reporting Requirements

Excess Telecom will report all information required by section 54.422, including as it may heretofore be amended. This includes the names of the Company's holding company, operating companies and affiliates, and any branding ("doing-business-as company" or brand designation), and provide to the Commission and USAC general information regarding the terms and conditions of the Lifeline plans for voice telephony service offered specifically for low income consumers through the program offered during the previous year, including the number of minutes provided, and whether there are additional charges to the consumer for service, including minutes of use and/or toll calls.⁴⁷

3. Reimbursement from USAC

In seeking reimbursement for Lifeline, Excess Telecom will comply with the requirements of C.F.R § 54.407, as revised by the *Order*.⁴⁸ Excess Telecom will certify when seeking reimbursement that the Company has obtained a valid certification form for each consumer for

⁴⁶ See *Order* at ¶ 257.

⁴⁷ See *Order* at ¶ 296, 390. Section 153 of the Communications Act defines "affiliate" as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

⁴⁸ See *Order* page 221.

whom the Company seeks Lifeline reimbursement,⁴⁹ and the Company will seek reimbursement for actual lines served, not projected lines.⁵⁰

4. Section 54.202 Certifications

Excess Telecom certifies the following in accordance with newly amended C.F.R. § 54.202:

(1) Excess Telecom will comply with the service requirements applicable to the support that it receives; (2) Excess Telecom is able to remain functional in emergency situations; (3) Excess Telecom will satisfy applicable consumer protection and service quality standards.

IV. COMPANY INFORMATION

Excess Telecom is a California corporation. Excess Telecom has a multi-faceted business model so that, while Lifeline will be an important focus to the Company, it will not be the only source of revenue. Excess Telecom believes that the provision of Lifeline service will be a natural complement to the Company's existing experience with government-subsidized housing, which is explained in more detail below. Excess Telecom will provide prepaid wireless telecommunications services to consumers by using the network of its underlying carrier(s). The Company has obtained or is currently in the process of obtaining agreements with nationwide carriers that provide wholesale capacity on their wireless networks to resellers like Excess Telecom, in order to access the network infrastructure and transmission facilities to allow Excess Telecom to operate as a Mobile Virtual Network Operator ("MVNO"). Excess Telecom will resell the network services of Sprint PCS ("Sprint") through its existing direct agreement with Sprint, and will resell the network services of Verizon Wireless and T-Mobile through a third party agreement with a Mobile Virtual Network Enabler ("MVNE"). Excess Telecom was granted a Section 214 International Telecommunications Certificate by the FCC on March 13, 2015 (See ITC-214-20150218-00049)

⁴⁹ See Order at ¶ 128.

⁵⁰ See Order at ¶ 302.

A. Operations

Excess Telecom is privately owned and operated, and does not have a holding company or operating company. The principals of Excess Telecom also own and operate Capital Insight, LLC (“Capital Insight”), an established and successful company with substantial capital and experience in real estate asset management and seeding successful Startups. Under Capital Insight, the principals of Excess Telecom own and control over \$300 million in real estate assets, including Section 8 and Single Room Occupancy (SRO) Program housing. Excess Telecom has contracted with strategic business partners in order to provide the Company with legal and compliance expertise specific to the telecommunications industry (see Exhibit E), and the Company is in the process of identifying the third party vendors that it will utilize for billing and operations support systems and customer service.

B. Financial and Technical Capability

Excess Telecom is financially and technically capable of providing Lifeline-supported services.⁵¹ As evidenced in Exhibit D attached hereto, the principals of Excess Telecom have established a substantial line of credit and set aside a sizeable amount of cash to fund the Company. Excess Telecom has not been subject to enforcement action or ETC revocation proceedings in any state. Excess Telecom is financially able to provide Lifeline-supported services and will not rely exclusively on USF disbursements to operate. In the event that USAC ceases disbursements for a period of time, the Company will still be able to provide service to its customers. Lifeline is only one of the services that Excess Telecom will offer. Excess Telecom will also provide non-Lifeline wireless telephone service and resell international minutes. Excess Telecom intends to act as a vendor to other retail wireless telecommunications providers, serving as an online distribution point

⁵¹ See *Order* at ¶ 387. See Exhibit D, which is being filed confidentially, for financial information.

for additional airtime as well as providing phone repair or exchange services.

Furthermore, Excess Telecom has retained strategic business partners that have great depth in the telecommunications industry and offer extensive telecommunications business technical and managerial expertise to the Company.⁵² CGM will provide business planning and strategy development, and ensure development of a compliant infrastructure so that all aspects of Lifeline service implementation are driven by compliance as a top priority; The Law Office of Lance J.M. Steinhart has been providing telecommunications legal services since 1990 and will serve as the Company's regulatory counsel; FAS Tek Compliance Solutions, Inc. will handle ongoing regulatory and tax compliance services, and Expert Telecom Compliance, Inc. will provide consulting, regulatory compliance and industry intelligence unique to Lifeline providers. Excess Telecom will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carrier.

C. Customer Service

Excess Telecom is dedicated to quality customer service and care. Lifeline customers can reach the Company's Customer Service department via 611 on their Excess Telecom handset, via the Company's toll free number 1-800-691-3011, or the Company's office at 1301 N. Main Street, Suite 206, Los Angeles, California 90015. Excess Telecom's Customer Service department will be available by phone Monday through Friday 9am-6pm PST and 24/7 online. The Company will have a dedicated Customer Service staff that will handle all service requests, including elective de-enrollments as outlined in Section III.E above.

⁵² See Exhibit E for strategic business partners and Exhibit F for key management and consultant bios.*Pat McDonough individually provided consulting services to Excess Telecom, but is now employed full-time, and as such, is not available to consult further with Excess Telecom.

D. Lifeline Offering

Excess Telecom will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carrier, currently Sprint. As summarized in Exhibit G attached hereto, the Company's Lifeline offering will provide customers with 275 voice minutes at no charge as well as 275 included text messages that will not deduct from available voice minutes.⁵³ The Company's Lifeline offering will also include a free handset; nationwide coverage; and access to voice mail, call waiting, and caller ID features. There is no additional charge for toll calls. Calls to 911 and calls to the Company's customer service by dialing 611 are free and will not be deducted from available minutes. Additional minutes will be available for purchase in competitive denominations at the rate of \$0.05 per minute or less. The Company also intends to develop a broadband component to its Lifeline offerings in the near future.

E. What Makes Excess Telecom Unique

Excess Telecom is uniquely positioned to effectively market Lifeline benefits to qualified recipients. Capital Insight's current real estate portfolio includes over 2,000 Section 8 housing units as well as other city and state subsidized housing programs. Capital Insight is in the process of building, acquiring or managing several other low income housing developments. These Section 8 housing units will give Excess Telecom direct access to thousands of low income Lifeline-qualified subscribers. Furthermore, the Company's principals have several strong relationships with celebrities who will be featured in Excess Telecom's television and radio campaigns. On the social media side, the Company's celebrity relationships have over 130 million followers to whom Excess Telecom's service will be publicized.

Excess Telecom is also uniquely positioned to effectively ensure compliance with Lifeline

⁵³ The Company reserves the right to alter the proposed Lifeline rate plans on a state-by-state basis, particularly as required by state public utility commissions (PUC). The Company commits to pass through the entire Lifeline subsidy amount directly to the consumer.

program regulations and prevent waste, fraud, and abuse of the program. Excess Telecom will benefit from Capital Insight's experience complying with government subsidized housing regulations. As detailed above and in Exhibit E, the Company has also surrounded itself with Lifeline compliance experts to ensure compliance from start to finish.

V. CONCLUSION

Excess Telecom submits that its Compliance Plan fully satisfies the conditions of forbearance set forth in the Commission's *Order*. Implementation of the procedures described herein will promote public safety and should ensure that Lifeline customers have access to 911 and E911 services while safeguarding against misuse of the Company's Lifeline services. Accordingly, Excess Telecom respectfully requests that the Commission expeditiously approve its Compliance Plan so that the Company may begin providing the benefits of much-needed Lifeline service to qualifying low-income consumers as quickly as possible.

Respectfully submitted,

Excess Telecom, Inc.

/s/ Lance J.M. Steinhart

Lance J.M. Steinhart
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys at Law
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
(770) 232-9200

Its Counsel

Dated April 16, 2015

Exhibit A

Sample Lifeline Certification Form

EXCESS TELECOM, INC.

LIFELINE APPLICATION

A Complete and signed Lifeline Service Application and Certification ("Certification") is required to enroll you the Lifeline program in your state. The Certification is only for the purpose of verifying your eligibility in the Lifeline service and will not be used for any other purpose. This service is provided by Excess Telecom, Inc. Requests will not be processed until this form has been received, verified and processed by the company.

Things to know about the Lifeline Program:
(1) Lifeline is a government benefit program.
(2) Lifeline Service is available for only one line, wireless OR wireline, per household. A household cannot receive benefits from multiple providers; and
(3) A household is defined, for purposes of the Lifeline Program, as any individual or group of individuals who live together at the same address and share income and expenses.

Applicant Information:

First Name: MI: Last Name: Date of Birth: Month Day Year

Social Security Number or Tribal ID Number (last 4 digits): (XXX-XX-XXXX) Contact Telephone Number:

Residence Address (No P.O. Boxes, Must be your principal address): This address is Permanent Temporary Multi-Household
APT/ Floor/ Other City: State: ZIP Code:

Billing Address (May Contain and P.O. Box)
APT/ Floor/ Other City: State: ZIP Code:

I hereby certify that I participate in at least one of the following programs: (Check all that apply)

- Initial Here
Non-Tribal Programs: Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Federal Public Housing Assistance, Low- Income Home Energy Assistance Program (LIHEAP), National School Lunch Program, Temporary Assistance for Needy Families (TANF), Medicaid
Tribal Programs: Bureau of Indian Affairs General Assistance (BIA), Tribally Administered TANF (TATNF), Head Start (Tribal households meeting income qualifying standards), Food Distribution Program (program on Indian reservations)

I certify that my household income is at or below 135% of the Federal Poverty Guidelines (FPG). There are individuals in my household.

I certify, under penalty of perjury: (Please certify by checking each Checkbox for each Certification)

- (1) The information contained in my application remains true and correct to the best of my knowledge and I acknowledge that willfully providing false or fraudulent information to receive Lifeline benefits is punishable by law and may result in me being barred from the program.
(2) I am a current recipient of the program checked above, or have an annual household income at or below 135 percent of the Federal Poverty Guidelines.
(3) I have provided documentation of eligibility if required to do so.
(4) I understand that I and my household can only have one Lifeline-supported telephone service. Excess Telecom has explained the one-per household requirement. I understand that violation of the one-per-household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the lifeline program, and could result in criminal prosecution by the United States Government.
(5) I attest to the best of my knowledge, that I and no one in my household is receiving a Lifeline supported service from any other land line or wireless company such as Safelink, Assurance, or Reachout Wireless.
(6) I understand my Lifeline service is a non-transferable. I may not transfer my service to any individual, including another eligible low-income consumer.
(7) I understand that if my service goes unused for sixty (60) days, my service will be suspended, subject to a thirty (30) day period which I may use the service or contact Excess Telecom to confirm that I want to continue receiving their service.
(8) I will notify Excess Telecom within thirty (30) days if I no longer qualify for Lifeline. I understand this requirement and may be subject to penalties if I fail to notify my phone company. Specifically, I will notify my company if I or my household:
(1) cease to participate in the above federal or state program, or my annual household income exceeds 135% FPG.
(2) am receiving more than one Lifeline supported service;
(3) no longer satisfy the criteria for receiving Lifeline support.
(9) I will notify Excess Telecom within thirty (30) days of moving. Additionally, if my address listed above is a temporary address, I understand that I must verify my address with Excess Telecom every ninety (90) days. If I fail to respond to Excess Telecom's address verification attempts within thirty (30) days, my Lifeline service may be terminated.
(10) Excess Telecom has explained to me that I am required each year to re-certify my continued eligibility for Lifeline. If I fail to do so within thirty (30) days, it will result in the termination of my Excess Telecom Lifeline service.
(11) I authorize and understand that the Excess Telecom may provide to state and Federal agencies, as required by law, for the purposes of complying with the Lifeline program all the information related to my account including but not limited to my name, date of birth, social security, usage history, address and phone number.
(12) I understand that my name, telephone number, address, date of birth, last four digits of my Social Security Number or my Tribal ID Number, the date my Lifeline service was initiated, the date my Lifeline service was terminated, if applicable, amount of Lifeline support requested on my behalf and the means through which I qualified for Lifeline will be divulged to the Universal Service Administrative Company (USAC)(the administrator of the program) and/or its agents for the purpose of verifying that I do not receive more than one Lifeline subsidy.
(13) I understand that if USAC identifies I am receiving more than one Lifeline subsidy, all carriers involved may be notified so that I may select one service and be de-enrolled from the other. I further understand that some states may impose more stringent rules including but not limited to barring me from re-enrolling in the program.
(14) I authorize the company to access any records required to verify my statements on this form and to confirm my eligibility for the Lifeline program.
(15) I certify that I reside on Federally Recognized Tribal lands (if applicable)

EXCESS TELECOM, INC.

LIFELINE APPLICATION

APPLICANT'S SIGNATURE

DATE

Agent Use Only:

1. Eligibility determination (check only 1 eligibility category and only 1 box under that category; do not copy or retain documentation):

Documents Acceptable Proof Income-Eligibility (if proof does not cover a full year, it must cover 3 consecutive months, same document type, within previous 12-months):

- The prior year's state, federal, or Tribal tax return,
- Current income statement from an employer or paycheck stub,
- A Social Security statement of benefits,
- A Veterans Administration statement of benefits,
- A retirement/pension statement of benefits,
- An Unemployment/Workmen's Compensation statement of benefits,
- Federal or Tribal notice letter of participation in General Assistance, or
- A divorce decree, child support award, or other official document.

Documents Acceptable Proof for Program-Eligibility

(choose 1 from each list A and B below)

List A - Choose 1

- Supplemental Nutrition Assistance Program (SNAP)
- Medicaid
- Section 8 Federal Public Housing Assistance (FPHA)
- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)

Documents Acceptable Proof for Program-Eligibility: List A (Continued)

- Low Income Home Energy Assistance Program (LIHEAP)
- National School Lunch Program's free lunch program
- Bureau of Indian Affairs General Assistance (BIA)
- Tribally Administered TANF (TATNF)
- Head Start (meeting income qualifying standards)
- Food Distribution Program (program on Indian reservations)

List B - Choose 1

- Program Participation card / document
- Prior year's statement of benefits
- Notice letter of participation
- Other official qualifying document: _____

Representative Number

Representative Signature

Exhibit B

Enrollment Process Summary

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Exhibit C

Sample Advertisement

Visual

Graphic:

Excess Telecom Lifeline Service

FREE Cell Phone Service
FREE minutes each month

Roll the graphic:

Food Stamps

Housing Assistance

Medicaid

Supplemental Security Income

Low Income Home Energy Assistance Program

Temporary Assistance for Needy Families

National School Lunch Program (Free program)

You may also qualify based on income

Graphic:

FREE Minutes
FREE Text Messages
FREE Long Distance
FREE Cell Phone

No Deposit
No Credit Check

Graphic:

FREE cell phone
FREE minutes each month

Graphic continuously at the bottom of the screen

Excess Telecom, Inc.

1-800-691-3011

Lifeline is a government-supported service available only to eligible consumers. Documentation required for proof of eligibility. Only one benefit per household. Customers willfully making false statements concerning benefits can be punished by fine or imprisonment or can be barred from the program. Terms and conditions apply.

Audio

Are you currently receiving any type of government assistance?

If so, you may qualify for Lifeline, a government benefit which gives you discounted phone service

With Lifeline, you can receive 275 free voice minutes & 275 free text messages each month. Use your minutes for voice calls nationwide. Excess Telecom will even give you a free phone!

Call today to see if you qualify for your free cell phone with 250 free minutes each month. There is no credit check and no deposit.

Call today at 1-800-691-3011

Exhibit D

Financial Information

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Exhibit E

Strategic Business Partners

Key Partners and Resources:

Lance J.M. Steinhart, P.C., Attorneys at Law.

The Law Office of Lance J.M. Steinhart, P.C.

The Law Office of Lance J.M. Steinhart, P.C. has been providing professional legal services since 1990, specializing in telecommunications, regulatory, and transactional law. The firm has provided regulatory counsel nationwide to over 600 public and private companies. We work with both new and established businesses with a focus on wireless providers, eligible telecommunications carriers (ETC), local (CLEC) and long distance (IXC) resellers, facilities-based carriers, VoIP providers, data providers, prepaid calling card and dial tone providers, inmate service providers, and operator and payphone providers. We regularly practice before the FCC and the state regulatory commissions in all 50 states, the District of Columbia, and Puerto Rico.

Our services include:

Federal Communications Commission:

Compliance Plans / Forbearance Petitions

Eligible Telecommunications Carrier (ETC) Petitions

Section 214 Authorizations

Lifeline, USF, TAF, TRS, UAF, ULTS, Tele-connect, High Cost, and CCLC

Complaint Proceedings, NALs

State Regulatory:

Eligible Telecommunications Carrier (ETC) Certifications

Wireless / MVNO / CMRS Authorizations

Local (CLEC) and Long Distance (IXC) Certifications

Inmate, Operator, and Payphone Certifications

Contract Drafting, Negotiation, and Review:

Interconnection Agreements

Carrier and Resale Agreements

Settlement Agreements

Mergers and Acquisitions:

Transfer of Control Proceedings

Asset Transfer Proceedings

Lance Steinhart is recognized as one of the leading telecommunications attorneys in the country. Lance has provided legal regulatory counsel to over 600 companies. In addition to his law practice, he was Founder and Chairman, Chief Executive Officer, and General Counsel of Telecom Compliance Services, Inc. (TCS), the first company to provide outsourced ongoing regulatory compliance. Lance founded TCS in 1995 and led the company to become a national leader in regulatory compliance services. Lance successfully sold the company to Thomson Reuters in April 2006.

Lance formed FAS Tek Compliance Solutions, Inc. in June of 2011, which provides ongoing regulatory and transactional tax compliance services to primarily telecom providers. He serves as Chairman, Chief Executive Officer, and General Counsel. He is also Founder and Chairman of Expert Telecom Compliance, Inc. ("ETC"), which provides ongoing consulting, compliance and industry intelligence to Lifeline Service Providers.

Lance received his Bachelor of Science in Finance degree from Syracuse University, a Juris Doctor Law degree, and a Masters of Tax Law from Georgetown University Law Center. He is a member of both the New York Bar Association and the Georgia Bar Association, and was admitted to practice law in the State of Maryland.

Lance is a member of the Competitive Telecommunications Association (COMPTEL) and the Federal Communications Bar Association (FCBA). Lance is currently a member of COMPTEL's Regulatory and Legislative Committee. Lance was a member of the Association of Communications Enterprises (ASCENT f/k/a TRA) and the International Prepaid Communications Association (IPCA), and previously served on the Internet Advisory Counsel for ASCENT, as well as on the Legal Affairs Committee for COMPTEL.

FAS Tek Compliance Solutions, Inc.

FAS Tek Compliance Solutions, Inc. specializes in providing regulatory and tax compliance filing services for companies of all sizes within the telecom industry. Our business is to assume the complexity of your reporting obligations, allowing you to focus on the healthy growth of your company. Our state-of-the-art, internally developed technology allows our highly-experienced staff to provide you with personal service that will track, analyze and report the critical information required by the various government agencies.

The FAS Tek team meticulously researches the specific reporting requirements of each client, during the implementation phase of our partnership, resulting in a customized individual client by client reporting portfolio. Establishing this concrete foundation early in the process enables us to guarantee on-going compliance with each jurisdiction, allowing us to provide you with the peace of mind you deserve.

FCC Reporting

The Federal Communications Commission (FCC) requires all telecom service providers to report on an annual basis. Non-compliance with the FCC can lead to heavy fines and penalties. FAS Tek Compliance Solutions, Inc. works alongside their clients to ensure all reports are filed accurately and on time.

FCC Telecommunications Filings:

- FCC 499A
- FCC 499Q
- FCC International Traffic Report
- FCC 477
- CPNI

Commission Reporting

Telecom service providers are required to be certificated or registered with any Public Service Commission that regulates the communications utility divisions. Local Services (CLEC), Wireless and Wireline Eligible Telecommunications Carriers (ETC), Intra- and Inter- State Services (IXC) are regulated by the majority of states. Each state requires the carrier to maintain a good standing status by remaining compliance with all required reports.

FAS Tek Compliance Solutions, Inc. alleviates the burden of reporting by handling preparation and filing of all Commission obligations:

- Annual Reports
- Revenue Reports
- Universal Service Fund (“USF”) reports
- Telecommunications Relay Service (“TRS”) reports
- Quality of Service Reports

Indirect Tax

Indirect taxes (also referred to as ‘transactional taxes’, ‘state and local taxes’ or simply ‘sales tax’) as they relate to telecommunication services, consist primarily of two categories – I.) Taxes and II.) Surcharges – both are billed to – and collected from – the users of the services.

Examples of ‘Taxes’ for telecommunication services are:

- Excise taxes
- Sales & Use taxes

- Utility taxes
- Gross Receipts taxes
- Privilege taxes
- License taxes

Examples of ‘Surcharges’ (or ‘fees’) that are imposed on telecommunication services are:

- Emergency Communications Services Surcharges (9-1-1 fees)
- Right-of-Way fees
- A number of other surcharges imposed by various state and local governments to fund any number of programs specific to each

Expert Telecom Compliance, Inc.

Expert Telecom Compliance, Inc. has rolled out a new offering to Lifeline Service Providers (LSPs) that fills the regulatory requirements gap, unique to this market. Beyond standard Regulatory Compliance which includes Secretary of State filings, Public Service Commission filings, and FCC 499/477 filings; and unrelated to standard Sales and Use Tax/E911/USF Compliance, LSPs are required to do more. Lifeline Regulatory Compliance consists of:

- A myriad of monthly/quarterly/annual report filings required by the states
- Quarterly/annual reporting required by the FCC
- Perfecting the document trail for state, USAC and FCC audits

Lifeline regulatory filing requirements are constantly evolving. The research, state negotiations and legal interpretations associated with the effort are a time consuming, daunting task for an LSP that doesn’t employ internal legal counsel. The consequences of not managing the process can be dire. Expert Telecom Compliance, Inc.’s Lifeline Compliance Service will move LSPs safely and efficiently through the regulatory landscape at a fraction of the time and cost required to manage this responsibility internally. Expert Telecom Compliance is a collaboration between Lance JM. Steinhart, P.C. and CGM.

CGM

CGM's Lifeline Support Service provides a comprehensive package of professional services and data processing designed to bring clarity, compliance and profitability to the wireline/wireless service provider's operation. Sixty percent of the 37 million eligible households aren't receiving a lifeline subsidy. They typically don't know it exists. The market opportunity is considerable.

Navigating through the federal and state lifeline rules, processes and interpretations can be a daunting task. Establishing and maintaining a compliant infrastructure capable of standing up to a Universal Service Administration Company audit can provide even more of a challenge. CGM's Lifeline Support Service will provide a road map to move efficiently through business planning, ETC petitioning, product rollout and fully compliant monthly processing. Additionally, we'll provide regulatory updates on trends/activity at USAC, the FCC, on Capitol Hill and at the states to ensure that our Clients have the opportunity to impact the debate and respond to proposed changes in the landscape.

Business Planning and Strategy Development

CGM delivers tutorials to develop expertise within a Client's staff. Employing extensive state-specific research, we assist in the development of ETC petitions and outreach strategy, leveraging a Client's existing strengths. We can help with vendor recommendations (legal, carrier, handsets, provisioning, billing, etc.) and establish regular conference calls to drive/track progress in the petitioning process. CGM provides monthly strategy updates derived from ongoing research into the evolving state and federal rule making arenas. Our intellectual capital typically saves Clients twelve to eighteen months of research and time-to-market. We provide:

- State-specific Market Analysis
- Distribution and Outreach
- Vendor Selection and Recommendations (legal, carrier, handset, OSS, etc.)
- USAC, SAC, and SPIN Filing
- State Regulatory Relationship Planning/ Visit Support

Development of Compliant Infrastructure

CGM has developed a Compliance Best Practices binder that is the sum of all we've learned from our interaction with USAC, states, the FCC and through participating in numerous audits. There are many ways to do things incorrectly and very few ways to operate within full compliance. In the lifeline world, compliance must precede profit on the list of priorities.

During the Lifeline Support Service implementation process, CGM reviews the many categories of compliance and works with Client's team to develop a top-to-bottom strategy to optimize the lifeline opportunity. Client's staff is instructed to create a monthly compliance binder that serves as a firm foundation for a successful audit. Regular spot checks/mini audits are performed by CGM staff throughout the year to ensure that all aspects of growth and serving-area expansion are driven in a fully compliant manner. Areas of concentration include:

- Service Offerings, Pricing, Tariff, Outreach/Marketing Material, Bill Presentment
- Enrollment Certification/Verification and Fraud Prevention Infrastructure (CGM app)
- Compliant Handset Procurement Confirmation
- Annual Recertification and De-enrollment
- Agent/Employee Training and Certification
- Documented Company-wide Processes for Compliant Best Practices
- Annual On-site Process Reviews and "Secret Shopping" Services
- Customer Retention Programs/Practices
- Bi-weekly Business Development Calls to Drive Compliance and Sales

Real-time Enrollment Platform

CGM provides fully compliant, Lifeline enrollment platforms for tablet, laptop and call center distribution models. Each is fully bonded with the NLAD and numerous state databases, and allows the ETC to ensure that every activation is performed in a 100% compliant manner. The following validations/confirmations are inherent through the application for every enrollment:

- End User Identity Verification
- End User Address Validation
- End User Eligibility Verification
- Intra-Company Duplicate Check
- Inter-Company Duplicate Check
- One Per Household Certification
- State-Approved Territory
- Carrier Coverage Map
- Confirmation of Active Account
- 60-Day "Usage" Confirmation

Form 497 Optimization and Calculation & Audit Support

CGM edits, optimizes and calculates end-of-month Form 497 reimbursements, and files them on behalf of our ETC Clients. We also provide detailed USAC and state audit planning, as well as on-site audit support.

On-Going Regulatory Arena Updates and Guidance

There's a steady flow of political and regulatory activity in Washington, and throughout many of the states, that will continue to shape the future of the Lifeline Program. Evolving discussions on seminal topics such as further reform, proper use of the NLAD and state databases, states' rights to impose rules, and expansion to broadband require careful monitoring and consistent advocacy. Sometimes the loudest voices carry the day, but often times the most intelligent, even-keeled voices have the greatest impact. Regardless of issue, Washington requires our input. CGM, through its network of contacts, will guide Clients to make optimum use of resources in the effort to impact policy.

Exhibit F

Key Management and Consultant Bios

Cobby Pourtavosi

President of Capital Insight, LLC

Professional Bio

As President and Founder of Capital Insight, our Company's main focus is to create Long Term relationships With Other Developers & Business Operators.

- 8+ years professional experience working in a capacity in real estate as a Development Partner, asset manager, portfolio manager & partner, and corporate real estate partner.
- Real estate underwriter with corporate level experience in complex, transaction, structuring, real estate leases, dispositions, space buildout/occupancy, financing and portfolio management to achieve optimal use and maximize value of Capital Insight's physical assets.
- Experience working with contractors, Architects, City Officials, Private Money, Banks, Corporate tenants, Funds.
- Personally responsible for financial & managerial repositioning of over 500,000 square feet of distressed commercial real estate.

Currently our portfolio consists of over 200m+ in assets that Capital Insight currently manages & owns a majority stake in. In our portfolio we currently manage & own over 2,000 Section 8 units that are being funded by the city and/or states of CA, NY & soon to be OR. In the last 2 years our primary focus has been start ups and the telecom industry. We have managed to put the right team together to launch our telecom business in a successful manner. This will complement our Tenant base, and Lifeline service will particularly benefit our Section 8 clientele.

Primary Focus

- Business Acquisitions & Dispositions
- Seed Capital for Start Ups
- Knowledge of real estate transactions, development process, finance, applicable codes, standards, guidelines, law and regulations
- Strong analytical and strategic problem solving skills
- Knowledge of due diligence for Commercial Retail Real Estate equity growth, long & short term
- Oversight of legal teams, handling zoning, planning and building codes

PATRICK M. McDONOUGH

Professional Profile

RANGE OF EXPERIENCE

A strategically focused professional with a proven track record of driving business results. Launched successful business ventures and led organizations to phenomenal growth. A strong background in business analysis, a range of experience that includes implementing market strategies, results driving programs, in-depth business modeling, value added system implementations, cost structure optimization and best-in-class business solutions. An effective leader and communicator with strong project management, problem-solving and analytical skills.

PROFESSIONAL AND BUSINESS HISTORY

Fountainhead Advisory: *Managing Partner*, February 2013 – February 2015

Howard Roark Consulting: *Managing Partner*, 2009 - 2013

i-wireless: *Chief Operating Officer*, 2008 – 2009, *Chief Financial Officer*, 2007 - 2008

Howard Roark Consulting: *Managing Partner*, 2005 - 2007

Cincinnati Bell: *Director of Financial Planning and Analysis*, 2004 – 2005. *Director of Finance - New Business Development*, 2002 – 2004, *Director of Finance and Accounting – Local Group*, 2001 – 2002, *Director of Finance and Accounting – Wireless Group*, 1999 – 2001 (*acting CFO* 2001).

Student Loan Funding Corp.: *Vice President and Controller*, 1997 – 1999. *Assistant Controller*, 1995 - 1997

Kentucky Higher Education Student Loan Corp.: *Accounting Manager*, 1994 – 1995.

Student Loan Funding Corp.: *Internal Audit Manager/Compliance Officer*, 1993 – 1994. *Senior Accountant*, 1989 – 1993.

PROFESSIONAL AND BUSINESS EXPERIENCE

- ◆ **Performance** – Responsible for launching a national wireless company including securing funding, establishing infrastructure, selecting and negotiating vendor contracts, creating an industry leading cost structure and all aspects of building an operational and regulatory framework. Co-founded Howard Roark Consulting, LLC. Responsible for leading major projects including launching start-ups and turn arounds. Secured best-in-class vendor pricing for clients.

PATRICK M. McDONOUGH

Page 2

PROFESSIONAL AND BUSINESS EXPERIENCE (CONTINUED)

- ◆ **Engineering Revenue Growth** - Drove top-line growth by helping to develop new products, strategic pricing and implementing cutting edge incentive programs. As such, helped lead dramatic revenue growth (100% year-over-year in one instance). Engineered the launch of new markets and new products, eliminating the loss of eroding products. Developed dynamic incentive plans, tightly linking individual performance with corporate goals, which drove focus and execution.
- ◆ **Optimization** - Performed key valuations and detailed due diligence as part of acquisitions, divestitures and product/market expansion decisions. Evaluated opportunities as a key member of the capital funding committee. Developed complex financial models and business analysis as part of product pricing and viability assessment.
- ◆ **Planning** - Improved planning processes by integrating strategic, long-term and annual planning processes. Created activity-based budgeting models, separating variable and fixed costs and measuring increases and decreases in variable costs to better model businesses. Drove a formal forecasting process that improved insight, managed expectations and identified needed actions.
- ◆ **Cash Flow** - Implemented a cash conservation/cash flow acceleration program improving cash flow by \$6 million. Achieved a 30% workforce reduction, while improving group performance. Implemented activity-based costing in order to accurately measure margins and make effective decisions regarding pricing, product offering and cost reduction programs.
- ◆ **Integration** - Successfully led several system implementations/migrations. Improved efficiencies and customer service through effective system feature implementations and system/process integration. Implemented accounting, billing and payment processing systems.
- ◆ **Building Foundations** - Started departments, divisions and entire companies from the ground up, ensuring all key functions were covered off and all requirements (covenants and regulations) were abided by. Created significant efficiencies in existing organizations, reducing time-to-complete and time-to-market.

EDUCATION

Bachelor of Arts, Magna Cum Laude, Finance and Accounting, Wilmington College

Exhibit G

Proposed Lifeline Rate Plans

Excess Telecom, Inc.

Lifeline Offering

275 Voice Minutes

275 Text Messages

Net cost to Lifeline customer - \$0 (free)

Included:

- Free handset
- Free calls to 911 emergency services
- Free calls to Customer Service
- Free domestic long distance
- Access to Caller ID, Call Waiting, and Voicemail

Additional Airtime

Available in competitive denominations at \$0.05 per minute or less

Attachment P

Excess Telecom, Inc. Lifeline Terms and Conditions of Service

These Terms and Conditions of Service apply to Excess Telecom, Inc. (“Excess Telecom” or the “Company”) services. Please read these Terms carefully as these Terms and Conditions of Service become effective by activating or using an Excess Telecom phone and is a legally binding agreement between you and Excess Telecom. These Terms and Conditions of Service contain important information about your consumer rights. Excess Telecom reserves the right to change or modify the Terms and Conditions of Service at any time and at its sole discretion. Changes made to the Terms and Conditions of Service will become effective at the time the change is posted on the Excess Telecom Website, found at <http://www.myfreephonenow.com>. Please check this website often for updates to the Terms and Conditions of Service.

Excess Telecom Lifeline Service

There is one Universal Lifeline Telephone Service discount in this jurisdiction: the federal Lifeline program (federal Lifeline). All qualified households in this jurisdiction may take advantage of this telephone discount program to help lower the cost of their phone bills. The Universal Service Administrative Company (USAC) administers the federal Lifeline program in this jurisdiction and is responsible for data collection and maintenance, support calculation, and disbursement for the program.

Only one discount per household (or “economic unit”) for each residential address is allowed (except for teletypewriter users and for Deaf and Disabled Telecommunications Program participants). Each household must choose to get the discount either on a wireline home phone or on a wireless cell phone, but not on both. Households cannot get the discount from multiple phone companies. Households that do not follow the one discount per household rule will lose their discounts.

A **household** includes adults and children who are living together at the same address as one economic unit. An economic unit consists of all adults (persons at least 18 years old unless emancipated) contributing to and sharing the household's income and expenses.

The Federal Communications Commission requires collection of Date of Birth and last 4 digits of Social Security Number or Tribal ID Number on application and renewal forms to be eligible for federal Lifeline discounts.

Qualification Methods for Federal Lifeline

There are two ways to qualify for the federal Lifeline program. You may qualify for via Program-Based OR Income-Based methods. Documentation of proof of eligibility is required. Under Program-Based, you may qualify for the federal Lifeline discounts if you or another person in your household is already enrolled in one or more of the eligible public-assistance programs:

- Medicaid

- Supplemental Nutrition Assistance Program (Food Stamps or SNAP)
- Supplemental Security Income (SSI)
- Federal Public House Assistance or Section 8
- Low Income Home Energy Assistance Program (LIHEAP)
- Temporary Assistance for Needy Families (TANF)
- National School Lunch Program’s Free Lunch Program (NSL)
- Bureau of Indian Affairs General Assistance
- Tribally-Administered Temporary Assistance or Needy Families (TTANF)
- Food Distribution Program on Indian Reservations (FDPIR)
- Head Start (if income eligibility criteria are met)
- State assistance programs (if applicable)

OR

Under Income-Based, you may qualify for federal Lifeline if your annual total household income is at or below one-hundred-and-thirty-five percent (135%) of the federal Poverty Guidelines.

Household income includes, but is not limited to: wages, salaries, interest, dividends, alimony and child support, grants, gifts, allowances, stipends, lottery winnings, inheritances, worker’s compensation, unemployment and public assistance benefits, social security payments, pensions, rental income, income from self-employment, cash payments from other sources, and all employment-related non-cash income.

Effective from January 22, 2015 to present.

Household Size	Annual Poverty Income – 135%
1 member	\$15,890
2 member	\$21,506
3 member	\$27,122
4 member	\$32,738
5 member	\$38,354
6 member	\$43,970
7 member	\$49,586
8 member	\$55,202
Each additional member	Add \$5,616

Documentation is required to show your household income meets the annual income limits if you are qualifying by Income-Based. Acceptable proof:

- Front page only of prior year’s state , federal (1040, 1040A, 1040EZ, 1040NR, 1040NR-EZ, 1040SS, or 1040X), or tribal tax return,
- Income statements or paycheck stubs for 3 consecutive months within the past 12 months,

- Statement of benefits from Social Security, Veterans Administration, retirement/pension, Unemployment Compensation, and/or Workmen’s Compensation,
- Federal or Tribal notice letter of participation in General Assistance,
- Divorce decree, child support documents, **and/or**
- Other official financial documents containing income information for at least 3 months.

Supported Services

The following supported services are available to Excess Telecom subscribers who participate in the federal Lifeline program. Questions regarding supported services can be made in writing or by contacting an Excess Telecom representative at 1-800-691-3011.

Voice grade access to the public switched network. Excess Telecom service provides wireless access to the Public Switched Telecommunications Network (“PSTN”). Voice grade access to the public switched network is defined as a functionality that enables a subscriber of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications;

Local Usage. As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage;

Access to Emergency Services. Excess Telecom provides 911 and E911 access for all its customers to the extent the local government in its service area has implemented 911 or E911 systems; and

Toll limitation for qualifying low-income consumers. ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls. Excess Telecom’s offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid basis. Excess Telecom’s service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same.

Wireless Services

Excess Telecom service is provided at the company’s discretion. Excess Telecom may change pricing or the company’s Terms and Conditions of Service, from time to time, without notice. Unless expressly prohibited by law, Excess Telecom reserves the right to modify or cancel a subscriber’s service, an account, or take corrective action at any time and for any reason, including, but not limited to, your violation of any provision of these Terms and Conditions of Service. Check the Excess Telecom website, www.myfreephonenow.com, for the most recent pricing and changes to the Terms and Conditions of Service. A subscriber’s right to use Excess Telecom service is subject to Excess Telecom business practices, policies, procedures, rates and these Terms and Conditions of Service. Excess Telecom may change the Terms and Conditions of Service at any time. Excess Telecom will notify subscribers of any change to the Terms and Conditions of Service that are determined to be materially adverse to a subscribers service 30 days in advance of the change. If subscriber does not terminate service

within 30 days of receiving this notice of a change in the Terms and Conditions of Service, subscriber agrees to accept any such changes.

Excess Telecom provides Excess Telecom mobile telecommunications services using the geographic areas covered by the Nationwide Sprint Network footprint. Local phone numbers may not be available in all areas. Subscribers do not have the ability use Excess Telecom service with any other wireless phone, device, or on another network. Subscribers may also not use an Excess Telecom handset with any other service or network. Airtime may be used for domestic calling from the United States and for other services as provided in these Terms and Conditions of Service. Excess Telecom service is for personal use only and may not be used in a manner that interferes with another Excess Telecom customer's use of service. Excess Telecom has determined that ability to provide good service to subscribers may be impaired when customers place abnormally high numbers of calls, sends or receives unusually high numbers of messages, or repeatedly place calls of unusually long duration, relative to typical usage by other Excess Telecom customers on similar service plans. Such non-typical usage suggests that a wireless phone is being used other than for personal use and is in violation of these Terms and Conditions of Service. Excess Telecom services are provided solely for live dialogue between two individuals. Excess Telecom services may not be used for any type of monitoring services, any data transmissions, or other non-personal related connections that do not consist of uninterrupted live dialogue between two individuals. An Excess Telecom subscriber account may be terminated, without notice, if a subscriber's usage is determined to be used in violation of the Terms and Conditions of Service for non-personal use, pager service, voice mail retrieval service, or other uses deemed inappropriate.

Excess Telecom services use radio transmissions and are therefore affected by limitations. Coverage is not available everywhere. Quality of service may be affected by conditions beyond Excess Telecom control, including atmospheric, geographical, or topographical conditions. Service may also be affected by damage to wireless handsets. Excess Telecom does not guarantee, or warrant, that service will be available at any specific time or geographical location, or that service will be provided without possible interruption. You should therefore never solely rely on your wireless phone for emergency calls, such as to 911. Excess Telecom customers have access to dial 911 in an emergency. However, occasionally a subscriber may attempt to call 911 in an area where there is no wireless coverage. If there is no wireless coverage, a subscriber's call to 911 may not go through and the subscriber should dial 911 from the nearest land line phone.

By applying or activating service with Excess Telecom, a subscriber agrees not to use Excess Telecom services in any way that is illegal, abusive, or fraudulent. This will be determined by Excess Telecom in its sole discretion. You may also not alter any of the software or hardware on your Excess Telecom handset for any purpose. Excess Telecom phones may not be sold to third parties.

In order to verify if you reside within a service area please visit www.myfreephonenow.com. You may enter your zip code or locate coverage maps on the website to verify coverage. The map is only an approximation of actual coverage and may differ substantially from the areas of coverage shown on the website. Coverage can be affected by many factors such as weather, terrain, buildings, equipment, signal strength or many other

factors that may affect network coverage. Excess Telecom does not guarantee coverage or network availability.

Lifeline Service Offering

To receive subsidized wireless service, a subscriber's principal residence address must be within Excess Telecom's designated service area. Visit www.myfreephonenow.com to check whether you reside in Excess Telecom's designated service area.

Service Rates (Airtime), Features, Coverage, and Activation Fees:

275 Minutes & 275 Text Messages Plan: Excess Telecom currently offers a 275 minute plan option to which Lifeline customers may apply their federal Lifeline discount. This 275 Minute Plan includes 275 voice minutes and 275 text messages. The federal Lifeline discount of \$9.25 will be applied making the net cost to Lifeline customers \$0.00 per month.

Eligible Lifeline customers will receive a free basic handset;¹ however, customers can choose to purchase a new upgraded handset from Excess Telecom. Customers may also use unlocked, approved handsets that Excess Telecom will activate.

Service includes nationwide coverage and access to voice mail, Caller ID, and Call Waiting features. There is no additional charge for toll calls. Calls to 911 emergency service and calls to customer service (by dialing 611) are free and will not be deducted from available minutes.

Airtime charges apply to standard voice usage calls for both local and domestic long distance calls. Excess Telecom voice usage is deducted in full-minute increments and all partial minutes are rounded up to the next minute. Airtime usage is rounded up to the nearest whole minute. Airtime applies to all message retrieval and voice calls. Unanswered outbound calls will be billed if the ring time exceeds 30 seconds. Ring time is defined as the amount of time between the point when a call is initiated (pressing the TALK button) and when it is answered (or terminated before being answered). Credits will not be given for dropped calls. Any unused airtime that expires is forfeited upon expiration or termination of eligibility in federal Lifeline.

Roaming charges, if they apply, will be billed at a rate of \$0.59 per minute of use and will be deducted from the available minutes. Roaming charges are not applied to Lifeline customers. Roaming charges occur when a subscriber makes a call using the facilities of another wireless service provider due to the location the call was placed. Roaming occurs when you make or receive calls outside the home network calling area. Excess Telecom does not provide any guarantees as to the availability or quality of service while roaming. An Excess Telecom Customer must have airtime minutes available to make or receive a call. Excess Telecom handsets will only operate when you have airtime minutes available on your wireless account;

¹ Free handsets provided to Lifeline customers are refurbished grade A or B; however, new upgraded handsets are available for purchase.

however, calls to 911 and 611 will always go through regardless of availability of minutes on your wireless account. If you run out of your allotment of airtime, you may purchase and add additional airtime. Purchasing additional airtime is outlined below.

INTERNATIONAL DIALING: International calling is not allowed on any Excess Telecom plan available. International dialing is blocked, but, there are no guarantees that all international calling can be blocked from your handset. If you attempt an international call and are successful your account will be blocked from making any additional calls for the remainder of the billing cycle except for emergency calls where available. Subscribers may buy additional airtime during this period while their account has been suspended for placing international calls. Excess Telecom strictly prohibits all international calling.

Additional Usage:

If a subscriber runs out of minutes/texts and desires to purchase additional usage, he or she has the option to purchase additional usage in top-up competitive denominations with voice minutes and domestic text messages, deducted at the rate of \$0.05 or less per minute/text.

Unused minutes and messages expire at the end of your monthly period and may not be used in subsequent months. If you use all of your monthly voice minutes before a new monthly cycle starts, and you do not have a sufficient balance in your account, you may not use your wireless phone to make or receive voice calls, other than 911 emergency calls and calls to 611 Customer Service, until the start of the next monthly cycle. If you have purchased additional minutes and use all your additional minutes, you will not have the ability to make calls or receive messages, except to place 911 calls where available and calls to 611 Customer Service, until you purchase more additional minutes or a new monthly cycle starts.

Subscribers may purchase additional minutes by using one of following methods: by paying by credit/debit card, or by buying additional minutes at any Excess Telecom authorized agent location. Sales taxes apply and are not included in the cost of the minute plan purchased. All minute plans offered by Excess Telecom include a limit (CAP) on the amount of minutes a subscriber can use in the 30-day period that begins on the day the plan is purchased. Purchased Additional Minutes Plans cannot be transferred or applied to any other wireless service or account. Excess Telecom Calling Features include Caller ID, Call Waiting, Three-Way Calling, Call Forwarding, and Voice mail. Caller ID may display both your billing name and your wireless number when placing outbound calls. Excess Telecom does not have the ability to block your name and number when making outbound calls.

Excess Telecom reserves the right to change, or modify its service offerings without notice.

Taxes and Surcharges

Excess Telecom charges state and local sales taxes. Pricing listed on the Excess Telecom website or listed in advertising methods for wireless service do not include certain taxes or surcharges. Subscribers are responsible for all charges applicable to the use of Excess Telecom service regardless if the subscriber was the actual user of the service. The amount of these taxes and surcharges is subject to change and may vary from time to time and by geographic area. Excess Telecom collects sales taxes on all Additional Minutes Offering Plans and may also

collect regulatory fees. Third party authorized retailers are responsible for collecting sales taxes and required regulatory fees for transactions that occur through such third party authorized retailers. Changes to a tax or surcharge will become effective as provided by the appropriate taxing authority and changes to applicable contribution amounts for Federal Universal Service Fund (“FUSF”) will apply. Taxes and fees are subject to change without notice.

Text Messaging Rates

An Excess Telecom subscriber can send and receive text messages of up to 160 characters. This text message includes the address and subject line. The type of messages a device can receive may depend on the wireless handset capabilities. Standard message rates apply when sending or receiving text messages, regardless if the message is viewed. Any unused messages that expire from one monthly billing cycle will not carry over to the next monthly billing cycle, unless the monthly plan specifically allows carry over messages. You may use your free monthly allotment of minutes to send and/or receive text messages. Text messages sent to you by Excess Telecom are free of charge. As stated above, the additional charge to send or receive any additional text message on your Excess Telecom phone beyond the 275 messages allotted monthly free of charge is \$0.05 per text message for receiving, and \$0.05 per text message for sending.

Domestic Text Messaging Rates:

Each domestic text will be deducted from the available messages in your plan or in your purchased Excess Telecom additional usage. Any unused messages will expire at the end of your monthly subscription period and will not be applied to subsequently purchased minutes, unless your plan includes rollover minutes. Subscriber messaging plans do not include international text, picture messaging, or voice mail messages.

International Text Messaging Rates:

Excess Telecom does not allow international text messages. Attempting to send international messages could result in deactivation of service.

Premium SMS:

Premium SMS is a text message to a designated “short code.” Buying or attempting to buy SMS services from anyone other than Excess Telecom is strictly prohibited. Premium SMS campaigns may include activities such as sending a vote, playing a game, expressing opinions, subscribing to some type of service, or some type of interaction with a television program. Excess Telecom does not participate in Premium SMS services or campaigns. You are solely responsible for any charges incurred for Premium SMS services or campaigns. Any text messages sent to a “short code” using Excess Telecom service will not likely be successfully sent or received. Any charges you may incur as a result of any attempts to participate in Premium SMS campaigns or services are not refundable, regardless whether you incur charges as deductions from your Excess Telecom minutes.

Preventing or Sending Spam:

Excess Telecom subscribers receiving unwanted text messages (“spam”) should contact the source and request to unsubscribe or remove the subscriber’s wireless phone number from the service. If an Excess Telecom subscriber intentionally sends spam from an Excess Telecom handset, the subscriber may be terminated without notice.

Excess Telecom may send you messages via SMS. There is no guarantee you will receive them.

Directory Assistance, Additional Charges and Services

Directory assistance calls will be Free. This amount will be deducted from available minutes you have remaining on your wireless plan.

Calling to 900 / 976 numbers are not available to Excess Telecom subscribers. Placing calls to 800 / 866 / 877 or other toll-free numbers will incur standard airtime charges. Excess Telecom allows subscribers to make or receive domestic long distance calls inside the domestic United States as long as coverage is available. Excess Telecom does not allow free calls to other subscribers using Excess Telecom service. Excess Telecom subscriber handsets do not provide rate information for services used to make or receive voice calls or messages.

Subscribers can switch wireless numbers for an additional fee. To make this change, please call Excess Telecom at 1-800-691-3011 to switch your wireless phone number. A charge of \$15 may apply to number change requests.

Excess Telecom will block any calls to 1-900, 1-976, some international calling, or other pay-per-call services.

If a subscriber’s account is deactivated for any reason, Excess Telecom will assess subscribers a standard reactivation fee which is not refundable.

Please contact Excess Telecom at 1-800-691-3011, or visit our website at www.myfreephonenow.com, for additional pricing information or answers to any questions about Excess Telecom services. Calls to Excess Telecom may be monitored and recorded for quality assurance.

Excess Telecom Subscriber Account History:

Subscriber account history is available online for the previous 60 days of service. You may request a printed copy of your account history detailing the last 60 days of service by sending a written request to Excess Telecom, 1301 S. Main Street, Suite 301, Los Angeles, CA 90015, and Attention: Account History. If you deactivate your services or change your wireless phone number, you may obtain your account history by contacting Excess Telecom at 1-800-691-3011. Please visit www.myfreephonenow.com to access your account history at no cost. Excess Telecom subscribers have the ability to request a copy of their paper bill. Requests for a copy of the paper bill must be submitted in writing via mail or fax.

Send requests to:

Excess Telecom
1301 S. Main Street, Suite 301
Los Angeles, CA 90015

Disputed Charges

If you have a dispute with any charge to your Excess Telecom account, you must notify us within 60 days after the charge appears on your account. You may either contact Excess Telecom at 1-800-691-3011 or send notice in writing to the address listed below. An Excess Telecom Customer Service Representative will investigate your claim. If Excess Telecom is not notified of your dispute within this 60-day period you waive any right to dispute the charge, including in arbitration and/or a court proceeding. You accept all charges not properly disputed within this 60-day period. We will provide you a credit or refund if we determine that the disputed charge was inappropriate and was disputed by you in a timely manner. If we provide a credit or refund, you agree that the dispute is fully and finally resolved and not subject to any further proceedings. Excess Telecom is not liable for any charges for products or services provided by third parties through and for use on our network, regardless of the date on which you report it. If any unauthorized or disputed charge appears on your statement for a third-party product, you must contact that third party directly. Third-party contact information is also available by calling Excess Telecom at 1-800-691-3011. Excess Telecom service, unless otherwise provided by law, excludes all incidental or consequential damages. Some states do not allow this exclusion.

Dispute by mail to:

Excess Telecom
1301 S. Main Street, Suite 301
Los Angeles, CA 90015

Refunds, Returns, or Lost Equipment Policy

Refunds:

Excess Telecom is not responsible for, nor will we refund any lost, stolen, misused, or damaged Excess Telecom Additional Minutes Plans. Additional plans purchased must be applied to a subscriber's account within 1 year of purchase. Excess Telecom does not accept returns or provide refunds of any Excess Telecom Additional Minutes Plans. All purchases of Excess Telecom Additional Minutes Plans are final and non-refundable regardless of who uses or possesses the subscriber's wireless phone after airtime is purchased, and regardless of whether the wireless phone is used with the subscriber's consent or knowledge. Monthly charges are non-refundable.

Returns:

Wireless handsets purchased directly from Excess Telecom may be returned for a full refund within 30 days of purchase. A subscriber must return the complete handset as was received at the time of activation. Please contact Excess Telecom at 1-800-691-3011 for

instructions. Excess Telecom provides new and recycled handsets to subscribers. All handset models provided to Lifeline subscribers are selected at the sole discretion of Excess Telecom. Handset models may vary. Excess Telecom reserves the right to replace handsets with various models at its sole discretion. All wireless handsets purchased directly from Excess Telecom include a 90-day warranty from Excess Telecom. If you experience a handset malfunction call Excess Telecom at 1-800-691-3011.

Lost or Stolen Equipment:

If an Excess Telecom Subscriber loses or has their handset stolen, the subscriber is responsible for all charges incurred until Excess Telecom is notified of the lost or stolen wireless phone. To report a lost or stolen wireless phone, please contact Excess Telecom at 1-800-691-3011. Upon receiving notice of the lost or stolen, Excess Telecom will suspend the account immediately. If a subscriber does not either activate a new Excess Telecom phone or notify us that they have found their wireless phone within 30 days of the suspension of the account, the account will be deactivated and the subscriber will lose the Excess Telecom phone number.

Phone Number

Excess Telecom subscribers must accept the number that is assigned to them at the time of activation. The wireless phone number Excess Telecom provides for subscribers to use is and will remain the property of Excess Telecom. Excess Telecom may release a subscriber's wireless phone number to another subscriber, without giving notice, if the subscriber cancels service with Excess Telecom, or if the account expires and is deactivated. Subscribers may transfer a wireless number prior to the wireless number being reissued to another subscriber. Excess Telecom reserves the right to change a wireless number at any time. Excess Telecom will attempt to notify the subscriber prior to any change. A subscriber can request to change a wireless phone number for a number change fee of \$15.

In some situations, a subscriber may transfer an existing carrier telephone number to your Excess Telecom service for use as an Excess Telecom phone number. To switch an existing phone number to Excess Telecom, please contact Excess Telecom at 1-800-691-3011. Before calling, please have a bill available from the existing carrier. When a subscriber transfers from another wireless carrier to Excess Telecom, they may have to pay a termination fee to the former carrier to early terminate the contract. Excess Telecom will not reimburse a subscriber for any termination fees imposed by other carriers.

Use of Excess Telecom Customer Information

By agreeing to Terms and Conditions of Service herein, you also agree to the terms of Excess Telecom Privacy Policy available online at www.myfreephonenow.com. The Privacy Policy may change from time to time and includes important information on what data we collect about you, how we use this data and with whom we share that data. Any "Customer Proprietary Network Information" (CPNI) data that Excess Telecom collects from subscribers will be handled in accordance with the Federal Communications Commission regulations, federal consumer privacy laws and the Excess Telecom Privacy Policy. Excess Telecom will not intentionally share subscriber's personal information without the subscriber's permission. Excess Telecom may, from time to time, use the information subscribers provide to market services to subscribers that may be related to Excess Telecom services or offerings. Subscribers

will have the opportunity to choose whether they would like to receive text messages notices, e-mail notices, or direct mail and other updates from Excess Telecom and its affiliates about new products, promotions, or other important services offered by Excess Telecom. Subscribers who choose not to receive these notices may elect to unsubscribe to the information by calling Excess Telecom at 1-800-691-3011. Excess Telecom may disclose to law enforcement authorities and governmental agencies any information, including your name, account information, account history, or other information properly requested by law enforcement to comply with appropriate legal requests.

Dispute Resolution

You agree to contact Excess Telecom with any disputes. You must contact Excess Telecom with any dispute by calling Excess Telecom at 1-800-691-3011 or by writing Excess Telecom at 1301 S. Main Street, Suite 301, Los Angeles, CA 90015, Attn. Dispute Resolution. You must provide a description of the dispute, all relevant information, any supporting documentation, and the proposed dispute resolution. An Excess Telecom representative will contact you at the last address you have provided or by phone. Excess Telecom agrees to negotiate in good faith to resolve any dispute you may have. You agree to pay the full amount reflected on your account statement, even while a dispute is being resolved. If you do not reach an agreement to resolve your claim within 30 days after notice of dispute was given, you or Excess Telecom may commence a Binding Arbitration proceeding (see below).

Certain disputes you may have with Excess Telecom (Excess Telecom.) may be resolved through Binding Arbitration. By making or receiving calls on an Excess Telecom handset you agree the sole remedy for any dispute shall be Binding Arbitration on an individual basis. You waive your rights to a jury trial or any class actions. You also agree the Federal Arbitration Act governs any dispute claim you have with Excess Telecom. This Binding Arbitration you agree as the sole remedy limits your options available in the event of a dispute to an individual basis and survives any termination of your service with Excess Telecom. Class Arbitrations and Class Actions are hereby excluded as a remedy for any dispute you may have.

This agreement shall be construed under the laws of the state of California, without regard to its choice of law rules, except for the arbitration provision contained in these Terms and Conditions of Service, which will be governed by the Federal Arbitration Act. This governing law provision applies no matter where you (the subscriber) reside, or where you (the subscriber) use or pay for Excess Telecom services. To the extent permitted by law, if a dispute claim proceeds in court, Excess Telecom and you waive any right that we may have to trial by jury in any lawsuit or other proceeding.

Limitation of Liability

Excess Telecom is not liable to you (subscriber) for any direct or indirect, special, incidental, consequential, exemplary or punitive damages of any kind, including lost or potential profits (regardless of whether it has been notified such loss may occur) by reason of any act or omission in its provision of equipment and/or Services. Excess Telecom will not be liable for any act or omission of any other company furnishing a part of our services, or our equipment or for any damages that result from any service or equipment provided by or manufactured by affiliated or non-affiliated third parties. Excess Telecom is not responsible, at any time, and shall not be liable to you or anyone else for any personal information such as user names, passwords,

contacts, pictures, SMS, or any additional content you may have stored on your phone or which may remain on your phone during and/or after you no longer have service with Excess Telecom. Unless prohibited by law, you (subscriber) agree to limit claims for damages or other monetary relief against each other to direct and actual damages. Excess Telecom assumes no risk or responsibility for a subscriber's use of any content provided by Excess Telecom services. Excess Telecom is not liable for any act or omission of any third party company providing part of Excess Telecom services (this includes equipment provided by a third party), any errors or omissions of any vendors or agents participating in offers made by Excess Telecom, any damages that result from third parties, or any unauthorized or disputed charges. There is no fiduciary duty that exists between you (subscriber) and Excess Telecom, Excess Telecom., or its affiliates. You (subscriber), also agree that Excess Telecom will not liable for any missed voice mails, any messages from your voice mail system, any data content, or any storage or deletion of contacts from a handset address book provided by Excess Telecom.

Indemnification

To the full extent by law, you agree to hold harmless and indemnify Excess Telecom and its affiliates and their respective officers, agents, directors, partners and employees, from any and all liabilities, settlements, penalties, claims, causes of action and demands brought by third parties (including any costs, expenses or attorneys' fees on account thereof), directly or indirectly, resulting from your use of Excess Telecom products and services, or another person whom you authorize to use your products or services, whether based in contract or tort (including strict liability) and regardless of the form of action. This obligation shall survive any expiration or termination of your service with Excess Telecom.

A subscriber may reside in a state that does not allow disclaimers of implied warranties or limits remedies for breach. Therefore, the above exclusions or limitations may not apply to all subscribers. A subscriber may have other legal rights that vary by state.

Warranties

Excess Telecom does not manufacture wireless phones or equipment used by subscribers. The only warranties applicable to such devices or equipment are those extended by the manufacturers. We have no liability, therefore, in connection with wireless phones and other equipment or for manufacturers' acts or omissions. WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND SERVICES PROVIDED HEREUNDER OR ANY SOFTWARE REQUIRED TO BE USED IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO, AND TO THE EXTENT PERMITTED BY LAW, WARRANTY OF TITLE, WARRANTY THAT A PRODUCT OR SERVICE IS FIT FOR A PARTICULAR USE OR WARRANTY OF MERCHANTABILITY. WE EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES. WE DO NOT PROMISE ERROR-FREE OR UNINTERRUPTED SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE WARRANTIES ON OUR BEHALF.

The Excess Telecom Terms and Conditions of Service, contained herein, supersede all oral or written communications and understandings between you and Excess Telecom, with respect to products and services provided to you and the terms under which they are offered to you by Excess Telecom. The surviving sections of this Terms and Conditions of Service shall continue to be valid and enforceable in the event that any part of these Terms and Conditions of

Service is declared invalid, not applicable, or becomes unenforceable. There are no provisions of these Terms and Conditions of Service that provide any person or any entity that is not a party to these Terms and Conditions of Service with any remedy, liability, claim, reimbursement, or any cause of action, or that creates any other third-party beneficiary rights. Any legal dispute, unless otherwise specified herein, shall be subject to the exclusive jurisdiction of the federal or state courts located within the State of California.

Excess Telecom reserves the right to suspend or terminate any subscriber's access to Excess Telecom services or to the Excess Telecom website or affiliated websites, at any time, should we determine in our sole discretion that a subscriber has violated any of these Terms and Conditions of Service or any other policy of Excess Telecom, its affiliates, or for any other reason at the sole discretion of Excess Telecom.

Notices

You may send notices to Excess Telecom by mail, 1301 S. Main Street, Suite 301, Los Angeles, CA 90015, or by phone, 1-800-691-3011. Notices will be considered effective after received by Excess Telecom. If a subscriber is unable to resolve concerns with Excess Telecom, they may file a complaint with the Federal Communications Commission. Any notice sent to a subscriber will be sent to your last known residence we have on file, or via text message to your Excess Telecom phone.