
**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Petition of Q Link Wireless LLC, for) WC Docket No. 09-197
Forbearance Pursuant to 47 U.S.C. § 160 from)
the Own Facilities Requirement for Eligible)
Telecommunications Carrier Status)
)
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)
)

**PETITION FOR FORBEARANCE OF
Q LINK WIRELESS LLC**

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SUMMARY

Q LINK WIRELESS LLC (“Q Link”), a reseller of commercial mobile radio services (“CMRS”), seeks forbearance from the facilities requirement of Section 214(e)(1)(A) of the Communications Act of 1934, as amended (the “Act”). Section 214(e)(1)(A) of the Act provides that an eligible telecommunications carrier (“ETC”) must offer services supported by the federal Universal Service Fund (“USF”) using either its own facilities or a combination of its own facilities and resale of another carrier’s services. Q Link requests forbearance from the facilities-based requirements under Section 214(e)(1)(A) for ETC designation to receive Lifeline and Link-Up support, consistent with prior grants to similarly situated wireless mobile virtual network operators (“MVNOs”). Q Link is concurrently applying for ETC designation solely to receive support under the Low Income program.

Q Link’s request meets all three of the requirements in Section 10 of the Act. First, forbearance is mandated because enforcement of the facilities requirement is not necessary to ensure that Q Link’s rates are just, reasonable and non-discriminatory. Q Link competes against numerous other wireless carriers, prepaid and postpaid providers, and other wireless companies that resell wireless services. This competition ensures that Q Link offers consumers high-quality services at competitive rates and that are just, reasonable and non-discriminatory.

Second, enforcement of the facilities-based requirement for Q Link is not necessary to protect consumers. Indeed, grant of the requested forbearance actually will benefit consumers, especially low-income consumers, by offering them alternatives for discounted wireless telecommunications services. Forbearance from the facilities requirement will therefore advance the Commission’s USF goal increasing participation in the Low-Income support programs.

Third, forbearance is the public interest since Q Link will be permitted to provide discounted telecommunications services to qualifying low-income customers, the intended beneficiaries of the Lifeline program. Many low-income consumers have difficulty obtaining access to an affordable service plan due to their inability to enter into a long-term contract. Q Link's prepaid service offerings are ideally suited to provide these customers with simple, reliable, cost-effective and affordable wireless services. Furthermore, Q Link will offer unique distribution channels and pricing plans to distinguish itself from existing Lifeline providers. Grant of forbearance, therefore, will enable Q Link to expand the availability of affordable telecommunications services to consumers who otherwise cannot afford telecommunications service.

Finally, Q Link's request for forbearance is consistent with prior decisions in which the Commission granted forbearance to TracFone Wireless, Inc. ("TracFone"), Virgin Mobile USA, L.P. ("Virgin Mobile") and i-wireless, LLC ("i-wireless"), all of which are also non-facilities based wireless companies that resell CMRS services. The Commission granted TracFone's forbearance request in 2005, Virgin Mobile's request in March 2009, and i-wireless' request in June 2010. The Commission concluded that the facilities-based requirement impedes more low-income consumers from benefiting under the USF's Low Income program, and forbearance of this requirement will increase the availability of prepaid wireless services that would significantly benefit low-income consumers who are especially concerned about costs, high usage charges and long-term contracts. For similar reasons, the Commission's grant of forbearance to Q Link from enforcement of Section 214(e)(1)(A) will benefit consumers, thereby furthering the Commission's goal of universal service.

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PETITION FOR FORBEARANCE

Q LINK WIRELESS LLC (“Q Link”), pursuant to Section 10 of the Communications Act of 1934, as amended (the “Act”),¹ hereby petitions the Federal Communications Commission (the “FCC” or “Commission”) to forbear from applying the requirement in Section 214(e) that a common carrier designated as an eligible telecommunications carrier (“ETC”) must offer the services included in the definition of universal service “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”² Q Link submits its petition for forbearance from the “own facilities” requirement for designation as a limited ETC for the sole purpose of participating in the Lifeline and Link-Up programs. As described below, Q Link’s request for forbearance from the own facilities requirement satisfies the requirements of Section 10 and is consistent with Commission decisions granting TracFone Wireless, Inc. (“TracFone”), Virgin Mobile USA, L.P. (“Virgin Mobile”) and i-wireless, LLC (“i-wireless”) forbearance from the own facilities requirements solely to participate in the USF’s Low Income

¹ 47 U.S.C. § 160. *See also* 47 C.F.R. § 1.53.

² 47 U.S.C. § 214(e)(1)(A).

Program.³ As discussed below, grant of forbearance will permit Q Link to offer discounted telecommunications services that will benefit low-income consumers and advance the Commission's goal of increasing participation in its Low-Income support programs.

I. BACKGROUND

A. Q Link Overview

Q Link is a Delaware Limited Liability Company with principal offices located at 499 Sheridan Street, Suite 300, Dania, Florida 33004.⁴ Q Link will provide prepaid wireless telecommunications services to consumers by using the Sprint Nextel network on a wholesale basis to offer nationwide service. Sprint Nextel ("Sprint") is a nationwide carrier that provides wholesale capacity on its wireless network to wireless resellers like Q Link. Pursuant to an existing agreement, Q Link will obtain from the Sprint network infrastructure and wireless transmission facilities. Q Link will purchase wireless services from Sprint via Boomerang Wireless, LLC d/b/a Ready Mobile ("Ready Mobile") for calling and text messaging, package those services into Q Link's own service plans and pricing, and bundle the wireless service with Q Link's handset selection, mobile applications, marketing materials, web interface, and customer service to produce finished wireless service offerings to sell to end-user customers.

Prepaid wireless services that are affordable and easy to use are attractive to lower-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

³ *Petition of TracFone Wireless, Inc. 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, 20 FCC Rcd 15095 (2005); *Petition 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); *Petition for Forbearance of i-wireless, LLC*, CC Docket No. 96-45, Order, 25 FCC Rcd 2762 (2010) (collectively, the "Forbearance Orders" or, individually, the "TracFone Forbearance Order," or "Virgin Mobile Forbearance Order," or "i-wireless Forbearance Order," as applicable).

⁴ Q Link was organized in the State of Delaware on August 25, 2011.

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, Q Link will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

Q Link will offer consumers a variety of 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 Mobile Virtual Network Operators' ("MVNO") customers, Q Link anticipates that many of its customers will be from lower-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. Q Link will not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. Q Link will allow customers to choose among a variety of prepaid calling plans.

Q Link intends to be a price leader in the prepaid marketplace by offering consumers exceptional value, and including highly competitive amounts of voice usage at all price points. Attached hereto as Exhibit 1 is Q Link's proposed Lifeline and Link-Up service offerings, showing that Q Link will provide customers with a choice of 68, 125, or 250 free minutes as well as a free handset.⁵ These choices are comparable to the 120 minutes of free airtime that Virgin Mobile apparently provides to Lifeline subscribers.⁶ As Exhibit 1 demonstrates, Q Link's

⁵ Options vary by plan, but include statewide, nationwide, even international, calling, and rollover minutes. All plans include free calls to customer care and 911 emergency services as well as free voicemail, Caller ID and Call Waiting.

⁶ See NASUCA comments at 4. In the *Katrina Lifeline Order*, the Commission found that 300 wireless minutes and a free handset were a reasonable amount of service to expect carriers to provide over the life of the program for a \$130 subsidy, which is more than twelve months of support under the regular Lifeline Program. *Federal-State Joint* (continued on next page)

Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers *at no cost to the subscriber*, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low rates and without a credit check or a term contract requirement.

Low-income consumers will further benefit from Q Link’s service because of Q Link’s unique distribution platform that will allow customers to purchase phones and refill minutes at small, local kiosks in neighborhoods where many eligible customers reside, or over-the-phone and via the Internet. This innovative distribution model is more practical and convenient for existing and potential eligible customers than other mechanisms, because it allows customers to obtain phones, service, and minutes without the expense and trouble of traveling to retail locations outside their neighborhoods. Q Link’s distribution arrangement will therefore advance the Commission’s goals of increasing awareness of and participation in the Lifeline program.

B. Lifeline/Link-Up Program

Universal service has been a fundamental component of U.S. telecommunications policy since adoption of the Act over 70 years ago. Section 254 of the Act embodies the Commission’s historical commitment to the concept of universal service, particularly 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

Board on Universal Service, et al., CC Docket No. 96-45 *et al.*, Order, 20 FCC Rcd 16883, 16889-90 ¶ 13 (2005). *Cf.* NASUCA comments at n.18.

services at affordable and reasonably comparable rates.⁷ The Low-Income program was designed to assist low-income individuals obtain quality telecommunications services through the Lifeline and Link-Up programs.⁸ Lifeline support helps defray the monthly costs of telecommunications services for lower-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.⁹ Link-Up provides qualifying low-income consumers with discounts for initial activation costs.¹⁰

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 the low Lifeline participation rate as one area for improvement.¹¹ Commission concerns regarding the underutilization of the Lifeline program have existed since its inception.¹² According to the most recent estimates issued by the USAC in 2010, only five (5) states had more than 50 percent of eligible low-income households subscribe to the program, while almost half the states had a participation rate of less than 20 percent.¹³ 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

⁷ 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).

⁸ 47 C.F.R. §§ 54.401 and 54.411.

⁹ 47 C.F.R. §§ 54.400 and 54.401.

¹⁰ 47 C.F.R. § 54.411(a)(1).

¹¹ See *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 (2004) ("Lifeline Order"). According to the Commission's own statistics, only one-third of households eligible for Lifeline assistance actually participated in the program just a few years ago. *Id.*

¹² See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8972 (1997).

¹³ Information available at: <http://www.usac.org/li/about/participation-rate-information.aspx>.

because “improve[d] participation in the Lifeline program...would increase telephone subscribership and/or make rates more affordable for low-income households.”¹⁴

C. Forbearance Standard

Section 10(a) of the Act provides that the Commission shall forbear from applying any regulation or any provision of the Act to any telecommunications carrier if the Commission determines that:

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.¹⁵

Forbearance is mandated when all three factors are satisfied.¹⁶

D. TracFone, Virgin Mobile, and i-wireless’ Petitions for Forbearance

The Commission previously has granted petitions submitted by wireless resellers seeking forbearance from the own facilities requirement in Section 214(e)(1)(A) of the Act.¹⁷ The Commission granted TracFone’s request for forbearance from the facilities-based requirement in 2005, Virgin Mobile’s request in 2009, and i-wireless’ request in 2010. Like Q Link, TracFone, Virgin Mobile, and i-wireless provide nationwide prepaid wireless services. The Commission

¹⁴ See *Lifeline Order*, 19 FCC Rcd at 8312 ¶ 13.

¹⁵ 47 U.S.C. § 160(a).

¹⁶ *Id.* (the Commission “shall forbear”).

¹⁷ See *Forbearance Orders*.

considered the statutory goals of universal service in the context of low-income consumers¹⁸ and the statutory purpose behind the own facilities requirement as it relates to carriers qualifying for federal low-income universal service support.¹⁹ After careful examination of the regulatory goals of universal service as applied to low-income consumers, the Commission concluded that each company satisfied the three requirements necessary for a grant of forbearance from the own facilities requirement.

Though the Commission had concluded in 1997 that pure resellers could not be designated as ETCs since these entities purchase from facilities-based providers minutes and services at a price that already reflects the universal service support payment,²⁰ the Commission found in the *Forbearance Orders* that these concerns did not apply where a pure wireless reseller was receiving Low-Income support only.²¹ The Commission further found that forbearing from the own facilities requirement for these MVNOs would advance the Commission's goal of increasing participation in the Low-Income Program.²²

II. DISCUSSION

A. Enforcement of Section 214(e)(1)(A) Is Not Necessary to Ensure that Q Link's Rates Are Just and Reasonable and Non-Discriminatory

Section 10(a)(1) of the Act directs the Commission first to determine whether enforcement of the facilities-based requirement of Section 214(e) is necessary to ensure that the "charges, practices, classifications, or regulations by, for, or in connection with that telecommunications

¹⁸ 47 U.S.C. § 254(b)(3).

¹⁹ 47 U.S.C. § 214(e).

²⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8866 ¶ 161 and 8875 ¶ 178 (1997) (subsequent history omitted) ("*Universal Service First Report and Order*"). See also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, 172-73 ¶¶ 160-61 (1996).

²¹ See, e.g., *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389 ¶ 18.

²² See, e.g., *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory.”²³ Given the extremely competitive state of the wireless industry,²⁴ enforcement of Section 214(e)(1)(A) is unnecessary to ensure that Q Link’s rates are just and reasonable. The Commission concluded in the 2005 *TracFone Forbearance Order* that the vigorous competition in the wireless market would “ensure[] that [TracFone’s] rates are just and reasonable and not unjustly or unreasonably discriminatory,”²⁵ and again in the 2009 *Virgin Mobile Forbearance Order* that “Virgin Mobile, as a reseller, is by definition subject to competition and that this competition ensures that its rates are just and reasonable and not unjustly or unreasonably discriminatory.”²⁶ The Commission noted in the *Forbearance Orders* that competition spurs innovation among carriers in their offerings, expanding the choice of available products for eligible consumers.²⁷

Q Link competes against numerous other wireless carriers, including prepaid and postpaid providers, nationwide carriers, facilities-based providers, and MVNOs that resell wireless services. Wireless companies continually differentiate their services and rates from the many other wireless providers with whom they compete in an effort to gain market share. As a relatively new and small wireless company lacking market power, Q Link is attempting to penetrate the competitive wireless market by offering competitive rates and services. Q Link offers simple and affordable plans, emphasizes quality customer service, and does not require a credit check or long-term contractual commitment. As customers may switch to another wireless provider at any time, Q

²³ 47 U.S.C. § 160(a)(1).

²⁴ See generally *Thirteenth Annual CMRS Competition Report*, 24 FCC Rcd 6185 (WTB 2008).

²⁵ *TracFone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 14.

²⁶ See, e.g., *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389 ¶ 19.

²⁷ *TracFone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 13; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389 ¶ 19; *i-wireless Forbearance Order*, 25 FCC Rcd at 2765 ¶ 9.

Link, as a reseller, is by definition subject to competition in the diverse wireless marketplace, which effectively precludes it from raising its rates anywhere close to an unreasonable or discriminatory level. Thus, consistent with its findings in the *Forbearance Orders*, the Commission should find that the existence of this robust competition will ensure that enforcement of Section 214(e)(1)(A) is unnecessary to ensure that Q Link provides its services at rates that are just and reasonable and not discriminatory.

B. Enforcement of Section 214(e)(1)(A) Is Not Necessary to Protect Consumers

Section 10(a)(2) of the Act requires a finding that application of the facilities-based requirement to Q Link is not necessary to protect consumers. Q Link's request for forbearance must be examined in light of the Act's primary goal of providing affordable and comparable telecommunications services to all consumers, particularly low-income consumers. As the Commission found in the *Forbearance Orders*, the grant of forbearance to allow Q Link to participate in the Low-Income program not only would not harm consumers, but "will actually benefit consumers" since this would offer eligible consumers a wider choice of providers for accessing telecommunications services not available to such consumers today.²⁸ The Commission also noted in the *Virgin Mobile Forbearance Order* that the prepaid feature may be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone but who are concerned about usage charges or long-term contracts.²⁹ Consumers will similarly benefit from the grant of Q Link's petition, with the added benefit of the choice of an additional

²⁸ *TracFone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 15; *Virgin Mobile Forbearance Order*, ²⁴ FCC Rcd at 3390 ¶ 21; *i-wireless Forbearance Order*, 25 FCC Rcd at 2765 ¶ 10.

²⁹ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390 ¶ 21.

competitor for their Lifeline service, which may provide pricing, features, or retail outlets to make Lifeline even more accessible to more eligible consumers.³⁰

Q Link's request will not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. In response to opponents' comments and concerns about the funding available to other ETCs, the Commission ruled that granting TracFone and Virgin Mobile ETC designation for Lifeline-only services would not "significantly burden the universal service fund and thus negatively affect consumers through increased pass-through charges of the carrier's contribution obligations."³¹

The Commission has recognized the potential growth of the USF associated with High-Cost support distributed to competitive ETCs.³² However, like TracFone, Virgin Mobile, and i-wireless, Q Link will only seek eligibility for the Low Income program, not the High-Cost program. In 2007, support from the Low Income program accounted for only 11.8 percent of the distribution of the total universal service fund, whereas High-Cost support accounted for 61.06 percent.³³ Thus, the Commission concluded that "any increase in the size of the fund would be minimal and is outweighed by the benefit of increasing eligible participation in the Lifeline

³⁰ See also *infra* Section III.C. regarding Q Link's E-911 and other consumer protection commitments.

³¹ *TracFone Forbearance Order*, 20 FCC Rcd at 15103 ¶ 17; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 24.

³² *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1577 ¶ 31 (2004); *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6433-4 ¶ 25 (2004); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, 8837-38 ¶¶ 6-7 (2008).

³³ *Trends in Telephone Service*, Wireline Competition Bureau, Federal Communications Commission, Table 19.1 and Chart 19.1 (Aug. 2008). As of March 2007, the average monthly federal support per non-tribal Lifeline customer was \$8.57. *Id.* at Table 19.7. See 47 C.F.R. § 54.403. Tribal customers are eligible for up to an additional \$25.00 per month in Lifeline support. 47 C.F.R. § 54.403(a)(4).

program, furthering the statutory goal of providing access to low-income consumers.³⁴ If Q Link is ultimately granted ETC designation to receive funding under the Low Income program, USF costs or expenditures will not increase in any meaningful way, and instead many low-income customers who do not currently participate in the Lifeline and Link-Up programs will benefit. Moreover, granting Q Link's Forbearance Petition will not have any effect on the number of persons eligible for Lifeline and Link-Up support.

Finally, Q Link will comply with all the conditions imposed upon TracFone, Virgin Mobile, and i-wireless to ensure the protection of consumers and the integrity of the fund. Specifically, subject to any subsequent FCC modifications to the conditions listed below, Q Link will: (a) provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, non-compliant handsets of existing customers who obtain Lifeline-supported services; (c) comply with conditions (a) and (b) as of the date it provides Lifeline service; (d) obtain a certification from each Public Safety Answering Point (PSAP) where Q Link will provide Lifeline service confirming that Q Link provides its customers with 911 and E911 access (or self-certify compliance if, within 90 days of Q Link's request, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that Q Link does not provide its customers with access to 911 and E911 service within the PSAP's service area);³⁵ (e) require its customers to self-certify at the time of service activation that they are the head of household and receive Lifeline-supported service only from Q

³⁴ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 24.

³⁵ *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc.* CC Docket No. 96-45, Order, FCC 09-16 (rel. Mar. 5, 2009).

Link and verify annually thereafter through use of a statistically valid sample that its customers remain the head of household and are not receiving other Lifeline service,³⁶ and (f) establish safeguards to prevent its customers from receiving multiple Q Link Lifeline subsidies at the same address.³⁷

C. Forbearance Is in the Public Interest

Finally, Section 10(a)(3) requires the Commission to determine whether enforcement of the own facilities requirement for a wireless reseller that seeks ETC designation for Lifeline/Link-Up support is in the public interest.³⁸ As was previously stated, Section 254(b) of the Act provides for competitive rates and higher-quality telecommunications services for all consumers and encourages the rapid deployment of new telecommunications services regardless of geographic location or income.

The Commission stated in the *Forbearance Orders* that the statutory goal of providing access to affordable telecommunications services to low-income consumers outweighs the requirement that a reseller maintains its own facilities, where the wireless reseller will be eligible for Lifeline support only³⁹. Thus, the Commission should also find that requiring Q Link, as a

³⁶ Q Link's proposal to use a statistically valid sample of customers for annual re-confirmation that customers are head of household and not receiving other Lifeline service is consistent with TracFone's recent request to modify its forbearance condition. *See Comment Sought on TracFone Request for Modification of Condition Adopted in Commission Order Granting TracFone Forbearance from Eligible Telecommunications Carrier Requirements*, CC Docket No. 96-45, Public Notice, DA 09-1272 (rel. June 5, 2009). Q Link concurs with TracFone that individual annual verification would be exceedingly burdensome. In the event that the Commission denies TracFone's modification request, however, Q Link's will accede to the terms of TracFone's original condition requiring individual annual re-certification.

³⁷ *TracFone Forbearance Order*, 20 FCC Rcd at 15098-99 ¶ 6; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386-87 ¶ 12; *i-wireless Forbearance Order*, 25 FCC Rcd at 2766 ¶ 13.

³⁸ 47 U.S.C. § 160.

³⁹ *TracFone Forbearance Order*, 20 FCC Rcd at 15104-05 ¶ 23; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 29; *i-wireless Forbearance Order*, 25 FCC Rcd at 2767 ¶ 15.

wireless reseller, to own facilities does not further the statutory goals of the Low Income program, which is to provide support to qualifying low-income consumers, regardless of where they live.

The Lifeline/Link-Up program is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers.⁴⁰ Presently only about one-third of households eligible for low-income assistance actually subscribe to the program.⁴¹ According to the most recent estimates issued by the USAC in 2010, only five (5) states had more than 50 percent of eligible low-income households subscribe to the program, while almost half the states had a participation rate of less than 20 percent.⁴² As noted in the *Forbearance Orders*, the Commission expanded eligibility criteria and outreach guidelines for federal default states in an effort to increase participation.⁴³ In granting forbearance to Virgin Mobile, the Commission stated: “We believe even more can be done to further expand participation by those subscribers that qualify and thus further the statutory goal of Section 254(b).”⁴⁴

The Commission concluded that enforcing the own facilities requirement would “impede[] greater utilization of Lifeline-supported services provided by a pure wireless reseller.”⁴⁵ Q Link, like TracFone, Virgin Mobile, and i-wireless, offers consumers a variety of prepaid wireless services that would be beneficial to low-income consumers “who need the mobility, security, and convenience of a wireless phone but who are concerned about usage charges or long-term

⁴⁰ 47 C.F.R. §§ 54.401 and 54.411.

⁴¹ *Lifeline Order*, 19 FCC Rcd at 8305 ¶ 1 and Appendix K at Table 1.B.

⁴² Information available at: <http://www.usac.org/li/about/participation-rate-information.aspx>.

⁴³ *TracFone Forbearance Order*, 20 FCC Rcd at 15105 ¶ 24; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30; *i-wireless Forbearance Order*, 25 FCC Rcd at 2765 ¶ 9.

⁴⁴ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

⁴⁵ *TracFone Forbearance Order*, 20 FCC Rcd at 15100 ¶ 9; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 15.

contracts.”⁴⁶ Q Link will offer all of the same benefits, plus added advantages to low-income consumers from its pricing plans and innovative distribution strategy.⁴⁷ Granting Q Link forbearance from the Section 214(e)(1)(A) own facilities requirement will further the Commission’s goal of expanding the availability of affordable telecommunications services to these consumers and utilization of the Low Income support program, and also promoting competition among providers of telecommunications services, leading to lower prices and increased choices for low-income consumers.

III. REQUEST FOR EXPEDITED TREATMENT

Q Link respectfully requests that the Commission expedite its processing of this petition for forbearance. Although there has been an increase in the number of households with telephone service, the Commission has noted that more improvements are needed to further expand the participation rate in the Low-Income program.⁴⁸ The Commission has highlighted that the participation rate in this program has been low since inception.⁴⁹ In an effort to increase participation in the Low-Income program, the Commission has expanded the qualifying criteria several times and adopted broader outreach guidelines to raise awareness of the programs among low-income consumers so that more low-income households will benefit by obtaining telecommunications service at an affordable rate.⁵⁰ Even though Virgin Mobile was granted ETC designation to provide Lifeline program, the Commission nevertheless emphasized that “more can

⁴⁶ *TracFone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 15; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390 ¶ 21; *i-wireless Forbearance Order*, 25 FCC Rcd at 2766 ¶ 10.

⁴⁷ *See supra* Section I.A.

⁴⁸ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 24.

⁴⁹ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30; *Universal Service First Report and Order*, 12 FCC Rcd at 88785 ¶ 449.

⁵⁰ *Lifeline Order*, 19 FCC Rcd at 8305 ¶ 1 and Appendix K at Table 1.B.

be done to further expand participation by those subscribers that qualify[.]”⁵¹ If granted limited ETC designation, Q Link intends to provide wireless services to low-income consumers who stand to benefit from the Low-Income program, and expedited treatment will allow it to do so sooner.

Expedited treatment also is justified given that Q Link is similarly situated to TracFone, Virgin Mobile, and i-wireless, and the Commission already determined that they satisfied the forbearance conditions. Reaching the same conclusion about Q Link thus should require minimal Commission resources.

Moreover, the recent economic downturn indicates that more and more eligible consumers will significantly benefit from the Lifeline and Link-Up programs once they become aware of this program.⁵² The U.S. Department of Labor recently reported that unemployment has soared above 15% in some areas.⁵³ Many consumers will be unable to pay for, and therefore will lose, their current phone services, and may not get the benefit of any telecommunication service without the option of a wireless carrier that can offer an affordable, cost-effective plan at a discounted rate. We therefore urge the Commission to act promptly so that Q Link may immediately reach out to these consumers who will benefit under the Lifeline/Link-Up program.

⁵¹ *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

⁵² See, e.g., “Prepaid Wireless Service Could Spur Price War,” Marguerite Reardon, CNN (May 6, 2009), available at <http://www.cnn.com/2009/TECH/05/06/prepaid.wireless/index.html> (“The prepaid cell phone market has finally hit the U.S. in a big way as economically strapped consumers flock to inexpensive pay-as-you-go services.”).

⁵³ United States Department of Labor, Metropolitan Area Employment and Unemployment Summary (June 30, 2009), available at <http://www.bls.gov/news.release/metro.nr0.html>.

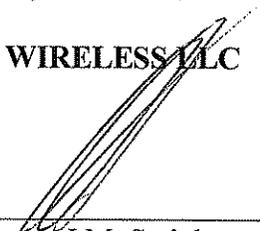
CONCLUSION

Q Link respectfully requests that the Commission forbear from applying the own facilities requirement of Section 214(e)(1)(A) to its request for designation as an ETC.

Respectfully submitted,

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EXHIBIT 1

Q Link's Proposed Service Offerings

Plan 1: 68 Monthly Minutes Plan*

68 anytime minutes per month

(texts are one-third of one minute, i.e. 3 texts = 1 minute)

Net cost to Lifeline customer: **\$0 (free)**

*This package includes:

- Free handset
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free Voicemail, Caller-ID, and Call Waiting
- 68 anytime minutes (unused minutes rollover)
- Free Domestic Long Distance
- Free International Long Distance to countries designated at www.qlinkwireless.com (listed below)

Plan 2: 125 Monthly Minutes Plan*

125 anytime minutes per month

(texts are one minute, i.e. 1 text = 1 minute)

Net cost to Lifeline customer: **\$0 (free)**

*This package includes:

- Free handset
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free Voicemail, Caller-ID, and Call Waiting
- 125 anytime minutes (unused minutes rollover)
- Free Domestic Long Distance

Plan 3: 250 Monthly Minutes Plan*

250 anytime minutes per month

(texts are one minute, i.e. 1 text = 1 minute)

Net cost to Lifeline customer: **\$0 (free)**

*This package includes:

- Free handset
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free Voicemail, Caller-ID, and Call Waiting
- 250 anytime minutes (unused minutes *do not* rollover)
- Free Domestic Long Distance

International Long Distance

Free International Calling Destinations on the 68 Monthly Minutes Plan

(Certain special or off-network locations may be excluded from the Free International Long Distance. Calls to cellular phones are not included unless the word "Cellular" is specifically listed next to the country name. Numbers in parentheses () indicate the Country Code.)

Albania-Tirana (355)	French Guiana-Cellular (594)	Norway (47)
Andorra (376)	French Guiana (594)	Panama (507)
Argentina (54)	Georgia (995)	Paraguay (595)
Australia (61)	Germany (49)	Peru (51)
Austria (43)	Gibraltar (350)	Poland (48)
Bahamas-Cellular (1)	Greece (30)	Portugal (351)
Bahamas (1)	Guadeloupe (590)	Romania (40)
Bangladesh-Cellular (880)	Guatemala-Telgua (502)	Russia-Cellular (7)
Bangladesh-Chittagong (880)	Hong Kong-Cellular (852)	Russia (7)
Bangladesh-Dhaka (880)	Hong Kong (852)	San Marino-Cellular (378)
Bangladesh-Sylhet (880)	Hungary (36)	San Marino (378)
Belgium (32)	Iceland (354)	Saudi Arabia-Riyadh (966)
Bermuda-Cellular (1)	India-Cellular (91)	Singapore-Cellular (65)
Bermuda (1)	India (91)	Singapore (65)
Bolivia-La Paz (591)	Indonesia-Cellular (62)	Slovakia (421)
Bolivia-Santa Cruz (591)	Indonesia-Jakarta (62)	Slovenia (386)
Brazil (55)	Indonesia-Surabaya (62)	South Korea-Cellular (82)
Brunei-Cellular (673)	Iraq-Baghdad (964)	South Korea (82)
Brunei (673)	Ireland (353)	Spain (34)
Bulgaria (359)	Israel (972)	Sweden (46)
Canada-Cellular (1)	Italy (39)	Switzerland (41)
Canada (1)	Japan (81)	Taiwan-Cellular (886)
Chile (56)	Jordan (962)	Taiwan (866)
China-Cellular (86)	Kazakhstan (7)	Thailand (66)
China (86)	Kenya-Nairobi (254)	Turkey (90)
Columbia-Cellular (57)	Lithuania (370)	United Kingdom (44)
Columbia (57)	Luxembourg-Cellular (352)	Uzbekistan (7)
Costa Rica (506)	Luxembourg (352)	Venezuela (58)
Croatia (585)	Macao-Cellular (853)	Vietnam-Ho Chi Minh City (84)
Cyprus-Cellular (357)	Macao (853)	Zambia (260)
Cyprus (357)	Malaysia-Cellular (60)	
Czech Republic (420)	Malaysia (60)	
Denmark (45)	Malta (356)	
Dominican Republic (1)	Mexico (52)	
Estonia (372)	Monaco (377)	
Finland (358)	Netherlands (31)	
France (33)	New Zealand (64)	
French Antilles (594)		

Link-Up Service Rates

Standard Activation Rate \$60.00

Link-up Discount \$30.00

Net cost to Link-up Customer: **\$30.00***

*Qualifying subscribers may request a deferred payment schedule for the remaining installation charges, thus allowing subscribers to obtain service without being required to pay any fees to activate service with Q Link.