

December 10, 2012

FILED/ACCEPTED

DEC 10 2012

Federal Communications Commission
Office of the Secretary

BY HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW,
Room TW-A325
Washington, DC 20554

Re: WC Docket No. 09-197

Dear Ms. Dortch:

Enclosed please find an original and four copies of the Petition of Prepaid Wireless Retail, LLC for Designation as an Eligible Telecommunications Carrier on a Wireless Basis in Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia.

Please date stamp the enclosed extra copy of this transmittal letter.

If you have any questions, please contact the undersigned at (301) 363-4306.

Regards,

A handwritten signature in black ink that reads 'Robert Felgar'.

Robert Felgar
General Counsel
Prepaid Wireless Retail, LLC

cc: Kimberly Scardino (via email)
Jonathan Lechter (via email)
Dviya Shenoy (via email)

No. of Copies rec'd 0+4
List ABCDE

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FILED/ACCEPTED

In the Matter of)
)
Telecommunications carriers Eligible to)
Receive universal Service Support)
Prepaid Wireless Retail, LLC)
)
Petition for Designation as an Eligible)
Telecommunications Carrier in Alabama,)
Connecticut, Delaware, the District of)
Columbia, Florida, New Hampshire,)
New York, North Carolina, Tennessee,)
and Virginia)

DEC 10 2012

Federal Communications Commission
Office of the Secretary

WC Docket No. 09-197

**PETITION OF PREPAID WIRELESS RETAIL, LLC FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER ON A WIRELESS BASIS IN ALABAMA, CONNECTICUT,
DELAWARE, THE DISTRICT OF COLUMBIA, FLORIDA, NEW HAMPSHIRE, NEW
YORK, NORTH CAROLINA, TENNESSEE, TEXAS AND VIRGINIA**

Prepaid Wireless Retail, LLC, dba Odin Wireless, by its undersigned counsel, hereby petitions the Federal Communications Commission (the “Commission”) for limited designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”).¹ Odin Wireless seeks designation as an ETC to participate in the Lifeline program in the States of Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia (the “FCC States”). Odin Wireless will not seek funds from the Universal Service Fund (“USF”) to provide service to high-cost areas.

¹ 47 U.S.C. § 214(e)(6).

The FCC States have all affirmatively stated that they lack jurisdiction or will not assign ETC status to commercial mobile radio service (“CMRS”) providers. Accordingly, the Commission has jurisdiction, pursuant to Section 214(e)(6), to review and grant Odin Wireless’ request for designation as an ETC in the FCC States.

As discussed in detail below, Odin Wireless meets the requirements for designation as an ETC pursuant to the Commission’s *Lifeline Reform Order*² and applicable commission rules, and is able and prepared to offer Lifeline services throughout the FCC States. Further, simultaneous with the filing of this Petition, Odin Wireless filed with the Wireline Competition Bureau its Compliance Plan.

Odin Wireless will be uniquely dedicated to serving the wireless communications needs of the blind and visually impaired. As demonstrated in detail herein, designating Odin Wireless an ETC will serve the public interest by providing the blind and visually impaired the opportunity to benefit from wireless Lifeline service, a service that is currently inaccessible to them.

I. BACKGROUND

Odin Wireless’ mission is to provide unprecedented levels of service and value to persons who are blind and visually impaired. This mission is unique in the wireless industry. To the extent that any carrier makes an effort to address the needs of this community, it is as an afterthought. Odin Wireless, on the other hand, will make accessibility its primary mission.

² See *Lifeline and Link Up Reform Order 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 (Feb. 6, 2012) (“*Lifeline Reform Order*”).

Odin Wireless will implement its mission in a number of ways, including selling handsets with the very best accessibility features, insuring that its website is fully accessible, describing in detail on its website the accessibility features of its handsets so that its customers have the required information to make informed decisions, and providing its customer service representatives with the unique skills and knowledge required to serve the needs of its customers.

Moreover, Odin Wireless will not passively accept and sell handsets that are already sold in the market. It will work tirelessly with manufacturers to innovate and develop new handsets, including smart phones, that improve ease-of-use, offer applications and digital content that benefit the blind and visually impaired and expand accessibility. Further, Odin Wireless will operate on T-Mobile's GSM network, which will provide the company a much larger pool of handsets and manufacturers from which to select and develop devices that are accessible.

II. THE COMMISSION HAS JURISDICTION TO DESIGNATE ODIN WIRELESS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act"), the Commission has the jurisdiction to designate telecommunications carriers as ETCs in states where common carriers are "not subject to the jurisdiction of a state commission."³ It is well established that the commissions of the FCC States do not have jurisdiction over wireless carriers such as Odin Wireless. Attached as Exhibit A are the statements of non-jurisdiction from the commissions of those FCC States.

³ 47 U.S.C. § 214(e)(6).

III. ODIN WIRELESS' LIFELINE OFFERING

Odin Wireless will offer a number of rate plans. With one exception discussed in the succeeding paragraph, Lifeline and non-Lifeline customers will have access to the same plans.⁴ The Lifeline monthly price will be the standard price, less \$9.25. In addition, Odin will not charge its Lifeline customers a number portability charge.⁵

Odin Wireless will also offer a Lifeline-only plan. Eligible customers will receive 250 free anytime local and long distance minutes per month. Each text message will consume one minute. Unused minutes will not roll over from month-to-month. A blind accessible wireless handset will be provided to qualifying Lifeline customers. The service will include caller ID, call waiting, call forwarding, 3-way calling and voicemail.

IV. ODIN WIRELESS REQUESTS DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN ITS SERVICE AREA

Odin Wireless is not a rural carrier as defined in Section 153(37) of the Act.⁶ Accordingly, Odin Wireless must describe the geographic service area(s) within which it requests designation as an ETC.⁷ Odin Wireless requests designation in the entire area of each state, and will offer its Lifeline-supported service wherever its underlying CMRS provider (T-Mobile) has coverage.

V. ODIN WIRELESS SATISFIES THE CONDITIONS FOR BLANKET FORBEARANCE

In the *Lifeline Reform Order*, the Commission granted blanket forbearance from the facilities requirement subject to two conditions: “(1) the carrier must comply with certain 911

⁴ Odin Wireless' rate plans are available at www.odinwireless.com.

⁵ 47 C.F.R. § 54.401(e) (2012).

⁶ 47 U.S.C. § 153(37).

⁷ *Public Notice – Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, FCC 97-419, 12 FCC Rcd 22947 (1997).

requirements ...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...."⁸

Odin Wireless has submitted its Compliance Plan pursuant to the *Lifeline Reform Order*. With respect to emergency services, forbearance is conditioned upon Odin Wireless: (1) providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes; and (2) 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.⁹ Odin Wireless will comply with these conditions.

Access to 911 and E911. Odin Wireless will provide its customers with access to 911 and E911 services immediately upon activation of service, and such access will continue even if the account associated with the handset has no minutes remaining.

As set forth above, Odin Wireless uses T-Mobile as its underlying network carrier. T-Mobile routes 911 calls from Odin Wireless' customers in the same manner as 911 calls from T-Mobile's own retail customers. Additionally, Odin Wireless currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active or suspended. Finally, Odin Wireless transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

⁸ *Id.*

⁹ *See id.*, ¶ 373.

E911-Compliant Handsets. All handsets used in connection with Odin Wireless' Lifeline service will be E911-compliant. Odin Wireless will only purchase phones that satisfy the 911 and E-911 requirements.

VI. ODIN WIRELESS SATISFIES THE REQUIREMENTS FOR ETC DESIGNATION

Sections 54.101, 54.201 and 54.202 of the Commission's rules outline the requirements that must be satisfied in order to be designated an ETC. Odin Wireless satisfies these requirements.

A. Odin Wireless Will Provide All of the Lifeline-Supported Services

1. Voice grade access to the public switched network.¹⁰ Odin Wireless has the ability to provide voice grade access to the PSTN through T-Mobile, its underlying carrier.
2. Minutes of use for local service provided at no additional charge to end users.¹¹ Odin Wireless will provide local service at no additional charge by providing its Lifeline customers with a discount of \$9.25 per month on its standard non-Lifeline plans. In addition, Odin Wireless will provide customers who select the Lifeline-only plan 250 anytime voice minutes of use per month, at no charge.
3. Access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911.¹² Odin Wireless' Lifeline customers will be able to place 911/E911 emergency calls with Odin's service from their E911 capable handsets. Further, Odin Wireless is capable of delivering automatic numbering information ("ANI") and automatic location information ("ALI") over its existing network, and otherwise satisfies all applicable state and federal E911 requirements. Finally, as described above, 911 and E911

¹⁰ 47 C.F.R. § 54.101(a).

¹¹ *Id.*

¹² *Id.*

emergency services are available to Odin Wireless customers even when all of their minutes have expired or their handset is currently inactive.

4. Toll limitation services to qualifying low-income consumers.¹³ There is no need for Odin Wireless to offer a toll limitation feature to qualifying low-income customers. Since Odin Wireless' service is a prepaid service, no customers will be disconnected for failure to pay toll charges or, for that matter, any other charges. Inasmuch as all Odin Wireless' services are prepaid there is no danger that low income customers will incur large charges for heavy toll (or other) calling and no risk that they will be disconnected for nonpayment. Since customers pay for the service in advance – they can use only what they already have paid for or what service quantities have been provided to them under the Lifeline program.

B. Odin Wireless Will Satisfy Additional Requirements for Designation as an ETC

1. Odin Wireless certifies that it will comply with the service requirements applicable to the support that it receives.¹⁴
2. As a reseller, Odin Wireless' service will remain functional in emergency situations to the same extent as T-Mobile's network remains functional.¹⁵ This includes a reasonable amount of back-up power to ensure functionality without an external power source, rerouting traffic around damaged facilities and managing traffic spikes resulting from emergency situations.
3. Odin Wireless will comply with all current consumer protection standards placed on it by the Commission and, where applicable, state regulators. Moreover, Odin Wireless will comply

¹³ *Id.*

¹⁴ 47 C.F.R. § 54.202(a)(1)(i).

¹⁵ 47 C.F.R. § 54.202(a)(2).

with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.¹⁶ The Consumer Code for Wireless Service is attached hereto as Exhibit B.

4. Odin Wireless is both financially and technically capable of providing Lifeline service.¹⁷

In the first instance, Odin Wireless anticipates that the significant majority of its revenue will be generated from non-lifeline customers. In addition, Odin Wireless' affiliate will generate substantial revenue from sources other than reimbursements from the Universal Service Administrative Company. Technical capability is demonstrated by the fact that (i) its executives have many years of experience in the telecommunications industry, (ii) BeQuick Software, Inc. provides its back-end support, and (iii) CGM, LLC will provide it with compliance services.

5. Odin Wireless provided information regarding the terms and conditions of its proposed Lifeline offering in Section III, *supra*.¹⁸

6. The Commission requires Lifeline-only ETCs to "publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service."¹⁹ Odin Wireless will publicize the availability of its Lifeline service to the blind and visually impaired largely through associations whose membership consists of such persons, as well as the internet.

VII. DESIGNATING ODIN WIRELESS AN ETC IS IN THE PUBLIC'S INTEREST

The blind and visually impaired are all but excluded from the opportunity to benefit from wireless Lifeline service. According to a survey performed on members of the Blind Veterans Association, only six percent of persons identified as eligible for Lifeline, participated in the program. This should not be surprising since no wireless ETC offers a free handset that is

¹⁶ 47 C.F.R. § 54.202(a)(3).

¹⁷ 47 C.F.R. § 54.202(a)(4).

¹⁸ 47 C.F.R. § 54.202(a)(5).

¹⁹ 47 C.F.R. § 54.405(b).

designed specifically to serve the needs of the blind and visually impaired;²⁰ no wireless ETC trains its customer service to expertly answer questions regarding such phones; and no wireless ETC specifically markets its Lifeline service to the blind and visually impaired. Thus, approval of this petition serves the public interest by providing the blind and visually impaired the opportunity to benefit from Lifeline service, a service that is largely inaccessible to them.

Recently designated wireless ETCs asserted in their petitions that they offer consumers additional choice and the benefits of greater competition (e.g., lower rates or more free minutes).²¹ In contrast, designating Odin Wireless an ETC will provide the blind and visually impaired with their *only* choice. It is for this reason that both the Blind Veterans Association and the American Council of the Blind, support this Petition. Attached as Exhibit C are their letters of support. Both of these organizations emphasize that the blind and visually impaired cannot currently take advantage of wireless Lifeline service.

The benefits of making wireless Lifeline service available to the blind and visually impaired would be tremendous. A large percentage of blind and visually impaired do not own a cell phone,²² primarily because of the lack of accessibility and the expense.²³ Odin Wireless intends to use its ETC designation to offer free and discounted service plans, as well as accessible handsets, in order to increase the percentage of blind and visually impaired that enjoy the substantial benefits of wireless technology.

²⁰ Indeed, the majority of wireless ETCs do not even permit its customers to select their handset. Customers are typically shipped whatever handset the ETC happens to have in stock.

²¹ See, e.g., *T-Mobile's Second Amended Petition for Designation as a Low-Income Eligible Telecommunications Carrier* at 23.

²² The BVA survey found that approximately forty two percent of its members do not use a cell phone.

²³ Data gathered in the Current Population Survey by the U.S. Department of Labor's Bureau of Labor Statistics shows that in September of 2010, only 37.7 percent of working age adults (ages 16 to 64) who reported vision loss were employed. Moreover, the U.S. Census Bureau reported that in 2002, the mean earnings of those without disability was \$32,870, while the mean earnings of persons reporting severe "difficulty seeing words/letters" was \$22,189. *American with Disabilities: 2002*, U.S. Department of Commerce, U.S. Census Bureau, Table 5 (issued May 2006).

Finally, *designating Odin Wireless an ETC in the FCC States will have minimal impact on the Universal Service Fund.* Odin Wireless is focused on a narrow niche that includes a relatively small number of persons. Moreover, the company will comply with the Commission's rules in order to minimize waste, fraud and abuse.

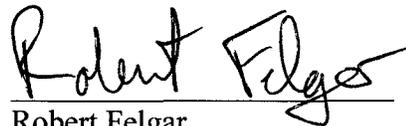
VIII. ANTI-DRUG ABUSE CERTIFICATION

Odin Wireless certifies that no party to this petition is subject to a denial of federal benefits that includes Commission benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

IX. CONCLUSION

For the foregoing reasons, Odin Wireless asserts that grant of its Petition for limited Designation as an Eligible telecommunications carrier as amended herein is in the public interest and is warranted in accordance with 47 U.S.C. § 214(e)(6) of the Act.

Respectfully submitted,



Robert Felgar
1800 I Rockville Pike
Rockville, MD 20852
(301) 363-4306

*General Counsel
Prepaid Wireless Retail, LLC*

December 7, 2012

INDEX OF EXHIBITS

EXHIBIT A STATEMENT OF NON-JURISDICTION FROM STATE COMMISSIONS

EXHIBIT B CTIA CONSUMER CODE FOR WIRELESS SERVICE

EXHIBIT C LETTERS OF SUPPORT

EXHIBIT A



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 991
MONTGOMERY, ALABAMA 36101-0991

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

**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.

DOCKET U-4400 - #2

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).

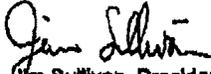
DOCKET U-4400 - #3

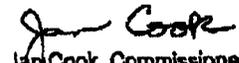
IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers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

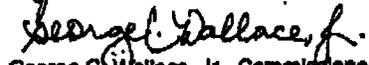
IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

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

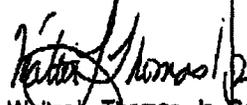
ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Jan Cook, Commissioner


George C. Wallace, Jr., Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

August 7, 2009

In reply, please refer to:

Docket No. 09-07-24:UR:PAP

L. Charles Keller, Esquire
Wilkinson Barker Knauer, LLP
2300 N Street, NW
Suite 700
Washington, DC 20037

Re: Docket No. 09-07-24 - Conexions LLC Seeks Designation as a Competitive Eligible Telecommunications Carrier

Dear Mr. Keller:

The Department of Public Utility Control (Department) acknowledges receipt of your July 10, 2009 letter filed on behalf of Conexions LLC (Conexions) seeking clarification as to whether the Department asserts jurisdiction to designate competitive eligible telecommunications carriers (CETC) in Connecticut. According to your letter, Conexions seeks designation as a CETC in Connecticut and believes that the Department does not assert jurisdiction to designate CETCs in the state and that carriers must apply to the FCC for certification.

The Department has reviewed your request and notes that it has approved requests for CETC status from wireline-based carriers. However, in the instant case, Conexions is a mobile virtual network operator. The Department does not regulate or license mobile carrier services' rates and charges and therefore, it is not subject to the Department's jurisdiction for the purposes of designating CETC status.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

A handwritten signature in black ink that reads "K. Santopietro (KAW)".

Kimberley J. Santopietro
Executive Secretary



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION
861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 739 - 4247
FAX: (302) 739 - 4849

July 15, 2009

L. Charles Keller, Jr.
Wilkinson Barker Knauer, LLP
2300 N Street, NW, Ste. 700
Washington, DC 20037

RE: Conexions LLC

Dear Mr. Keller:

You have requested a statement confirming that the Delaware Public Service Commission ("PSC") lacks the jurisdiction to designate your client, Conexions, LLC ("Conexions"), as an Eligible Telecommunications Carrier ("ETC") under 47 U.S.C. § 214(e). You have represented that Conexions is a new mobile virtual network operator who seeks to participate in the FCC's Lifeline support program for qualifying low-income consumers.

Under state law, the Delaware PSC does not currently exercise any form of supervisory jurisdiction over wireless commercial mobile radio service ("CMRS") providers. *See 26 Del. C. § 102(2)* (excluding "telephone service provided by cellular technology, or by domestic public land mobile radio service" from the definition of "public utility"); *26 Del. C. § 202(c)* (providing that the Delaware Commission has "no jurisdiction over the operation of domestic public land mobile radio service provided by cellular technology service or over rates to be charged for such service or over property, property rights, equipment of facilities employed in such service"). In fact, in granting ETC status in Delaware for Cellco Partnership d/b/a Bell Atlantic Mobile, the FCC accepted the Delaware PSC's confirmation at that time that it did not have jurisdiction under state law to designate CMRS providers as ETCs. *See Federal-State Joint Board on Universal Service; Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, Memorandum Opinion and Order, 16 FCC Rcd. 39 (2000), at ¶¶ 3-4. There have been no changes to state law regarding the PSC's authority over CMRS providers since the *Cellco* decision.

L. Charles Keller, Jr.
July 15, 2009
Page 2

I hope this addresses your request for confirmation that the Delaware Public Service Commission does not have jurisdiction under state law to designate CMRS providers, such as Conexions LLC, as an ETC.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce H. Burcat". The signature is written in a cursive style with a large, prominent initial 'B'.

Bruce H. Burcat
Executive Director



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

July 22, 2009

Via First Class and Certified Mail

Mr. L. Charles Keller
Counsel for Conexions, LLC.
Wilkinson Barker Knauer, LLP
2300 N Street, NW, Suite 700
Washington, DC 20037

Dear Mr. Keller:

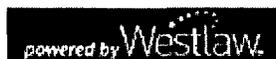
Thank you for your July 10, 2009 letter stating Conexions, LLC's ("Conexions") intent to be designated as an eligible telecommunications carrier in the District of Columbia. As you are aware, the Public Service Commission of the District of Columbia ("Commission") does not have jurisdiction over wireless carriers operating in the District of Columbia, pursuant to section 34-2006(b) of the District of Columbia Code. Thus, the Commission has no authority to designate Conexions as an eligible telecommunications carrier in the District of Columbia.

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 me at 202-626-5140 or rbeverly@psc.dc.gov.

Sincerely,


Richard A. Beverly
General Counsel

Enclosure



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. (Refs & Annos)

Subtitle V. Telecommunications.

Chapter 20. Telecommunications Competition. (Refs & Annos)

➔§ 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

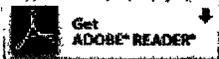
The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104- 104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through June 17, 2009

Copyright © 2009 By The District of Columbia. All Rights Reserved.
END OF DOCUMENT

© 2009 Thomson Reuters/West. No Claim to Orig. U.S. Govt. Works.
Adobe Reader is required to view PDF images.



[Docs In Sequence](#)

Westlaw, part of Thomson Reuters
© 2009 West | [Privacy](#) | [Accessibility](#)



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

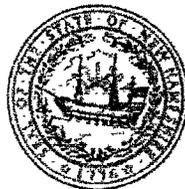
cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

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

September 22, 2009

L. Charles Keller
Wilkinson Barker Knauer, LLP
2300 N Street, NW
Suite 700
Washington, DC 20037

Re: Conexions, LLC

Dear Mr. Keller:

This is in response to your letter to the Commission, received July 10, 2009, concerning the above-referenced telecommunications carrier. You requested a statement from the Commission that Conexions, LLC (Conexions) is not subject to the jurisdiction of the Commission, inasmuch as this will affect how Conexions proceeds with efforts to become designated as an Eligible Telecommunications Carrier (ETC) for purposes of receiving universal service support pursuant to the federal Telecommunications Act.

You attention is directed to a published order of the Commission, *RCC Minnesota, Inc.*, 88 NH PUC 611 (2003) (Order No. 24,245). In that order, the Commission acknowledged that it lacks state-law authority to regulate wireless carriers, *id.* at 615, citing Section 362:6 of the New Hampshire Revised Statutes Annotated, and therefore the Commission concluded that the agency is likewise devoid of jurisdiction to consider a request for ETC designation from the carrier. In my judgment, Conexions as a user of both cellular and PCS (personal communications service) spectrum to provide commercial mobile radio service, may rely on the *RCC Minnesota* decision for the proposition that the Federal Communications Commission, as opposed to the New Hampshire Public Utilities Commission, is the appropriate agency to consider Conexions's bid for ETC status.

Please feel free to call me at 603-271-6005 if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Anne Ross".

F. Anne Ross
General 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

GARRY A. BROWN
Chairman
PATRICIA L. ACAMPORA
MAUREEN F. HARRIS
ROBERT E. CURRY JR.
JAMES L. LAROCCA
Commissioners



PETER MCGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

September 1, 2009

L. Charles Keller
Wilkson Barker Knauer, LLP
2300 N Street, NW Suite 700
Washington, DC 20037

RE: Matter 09-01517/Case 09-C-0600 - Conexions LLC Request for Letter Clarifying
Jurisdiction over Wireless CETC

Dear Mr. Keller:

I am responding to your letter to Secretary Brillling, dated July 10, 2009 on behalf of Conexions LLC (Conexions). 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 designation under 47 U.S.C. §214(e) and 47 C.F. R. §54.201 *et seq.* You indicated that Conexions is a mobile virtual network operator ("MVNO") seeking designation as a competitive eligible telecommunications carrier ("CETC") in New York.

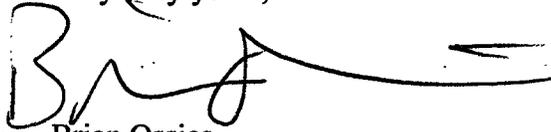
In response to your request, please be advised that the New York State Public Service Law §5 provides that:

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.

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 Conexions that it is a mobile virtual network operator ("MVNO") provider, Conexions would not be subject to the application of the Public Service Law and therefore, the jurisdiction of the New York Public Service Commission for purposes of making the Eligible Telecommunications Carrier designation.

As this letter is responsive to your request for a statement, Matter 09-01517/Case 09-C-0600 will be closed.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Brian Ossias', with a long horizontal flourish extending to the right.

Brian Ossias
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

GARRY A. BROWN
Chairman

PATRICIA L. ACAMPORA
MAUREEN F. HARRIS
ROBERT E. CURRY JR.
JAMES L. LARocca
Commissioners



PETER McGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

August 13, 2009

L. Charles Keller
Wilkinson Barker Knauer LLP
2300 N Street, NW
Suite 700
Washington, DC 20037

Re: Case 09-C-0600 – Petition of Conexions LLC for a Declaratory Ruling that the Company, a wireless telephone service provider, is not subject to Commission jurisdiction

Dear Mr. Keller:

I am responding to your letter to Secretary Brillling, dated July 10, 2009, on behalf of Conexions LLC ("Conexions"). In your letter, you requested a statement that the State of New York does not exercise jurisdiction over wireless telephone service providers for purposes of making determinations concerning eligibility for Competitive Eligible Telecommunications Carrier designations under 47 USC §214(e) and 47 CFR §54.201 et seq. You indicated that Conexions is a mobile virtual network operator in several states, including New York.

In response to your request, please be advised that the New York State Public Service Law §5(3) provides that:

Application of the provisions of this chapter [the Public Service Law] to 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 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.

In addition, the New York State Public Service Law §5(6)(a) provides that:

Application of the provisions of this chapter [the Public Service Law] to cellular telephone services is suspended unless the [New York Public Service] commission, . . . makes a determination, after notice and hearing, that suspension of the application of the provisions of this chapter shall cease to the extent found necessary to protect the public interest.

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 Conexions that it is a wireless telephone service provider, Conexions 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 Competitive Eligible Telecommunication Carrier designation.

As this letter is responsive to your request for a statement, Case 09-C-0600 will be closed.

Sincerely,

A handwritten signature in black ink, appearing to read "Saul M. Abrams", written in a cursive style.

Saul M. Abrams
Assistant Counsel

cc: Jaclyn A. Brillling, Secretary
Maureen Harris, Commissioner

**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, 2009, 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)). 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. 82-3(23)), 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

Patricia Swenson

Patricia Swenson, Deputy Clerk

pc022003.01

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

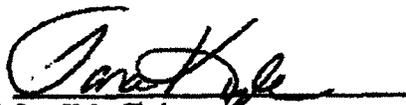
In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier 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.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.")

PROJECT NO. 40561

2012 NOV 21 AM 11:37

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.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION DOCUMENT CONTROL
AT RICHMOND, APRIL 9, 2004

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC

APR 9 11:46
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 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.fcc.state.va.us/scc/caseinfo.htm>.

⁴ The FCC denied Virginia Cellular's request to redefine the study area of NTELLOS. 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.

EXHIBIT B

CTIA

Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

ONE

DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

TWO

MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

THREE

PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

FOUR

ALLOW A TRIAL PERIOD FOR NEW SERVICE

When a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

FIVE

PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

In advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

SIX

SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

S E V E N

**PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE
FOR CHANGES TO CONTRACT TERMS**

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

E I G H T

PROVIDE READY ACCESS TO CUSTOMER SERVICE

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

N I N E

**PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS
RECEIVED FROM GOVERNMENT AGENCIES**

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

T E N

ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

EXHIBIT C



BLINDED VETERANS ASSOCIATION

477 H STREET NORTHWEST • WASHINGTON DC 20001-2694 • (202) 371-8880

December 5, 2012

Dear Sir or Madam:

On behalf of the membership of the Blinded Veterans Association (BVA), the only congressionally chartered veterans service organization exclusively dedicated to serving the needs of our Nation's blinded veterans and their families for 68 years, the BVA would like to lend its strong support for the petition of Odin Wireless to be designated an eligible telecommunications carrier ("ETC").

The BVA is very concerned that many of its members are not benefiting from even the most basic advances in telecommunications technologies. BVA was a strong advocate for both the American Disabilities Act ("ADA"), and provided witnesses in favor of the enactment of the 21st Century Communications and Video Accessibility Act. The BVA views helping its members gain access to wireless and other communications technologies as a critical issue for blinded veterans.

A recent survey suggests that more than one third of the BVA's members do not even use a basic cell phone, let alone a so-called smart phone. Reasons for this vary but include the cost of wireless services, as well as the lack of accessible handsets. While the general population embraced the benefits of wireless technologies years ago, our blinded veterans, who have given so much to our country, are falling behind.

Blinded veterans face huge economic challenges. The Department of Veterans Affairs found that in 2009, 32 percent of blinded veterans lived on less than \$20,000 per year. And according to Disability Statistics, in 2008, only approximately 43.3 percent (plus or minus 0.76 percentage points) of non-institutionalized persons with a visual disability, ages 21-64, were employed. Accordingly, BVA's members would benefit substantially from Lifeline service which would make basic wireless service more affordable. Yet our recent survey suggests that only a small percentage of blinded veterans are taking advantage of the program. This low participation rate is likely caused in significant part by the fact that wireless ETCs do not offer accessible handsets, accessible websites and specially trained customer service that can assist blind customers use their phone. Odin Wireless has stated that it will address these limitations and make its service fully accessible.

The BVA supports the Odin Wireless petition because designating it an ETC will provide low income blinded veterans the ability to participate in a government program that has been largely inaccessible. Our sincere hope is that a wireless Lifeline service that targets the needs of the blind will have significant positive impact on the percentage of BVA's members who adopt and benefit from basic wireless service.

The BVA greatly appreciates the efforts of the Commission to make wireless, and other technologies, accessible to the blind, including our membership of blinded veterans.

Sincerely,

Thomas Zampieri
Director Government Relations



American Council of the Blind

2200 Wilson Blvd., Suite 650 • Arlington, VA 22201 • Tel: (202) 467-5081 • Fax: (703) 465-5085

December 6, 2012

Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Sir or Madam:

The American Council of the Blind (ACB) is a leading national membership organization whose purpose is to work toward independence, security, equality of opportunity, and improved quality of life for all blind and visually impaired people. Founded in 1961, ACB's members work through more than 70 state and special-interest affiliates to improve the well-being of all blind and visually impaired people by: serving as a representative national organization; elevating the social, economic and cultural levels of blind people; improving educational and rehabilitation facilities and opportunities; cooperating with the public and private institutions and organizations concerned with blind services; encouraging and assisting all people with severely impaired vision to develop their abilities, and; conducting a public education program to promote greater understanding of blindness and the capabilities of people who are blind.

ACB supports the petition of Odin Wireless to be designated an eligible telecommunications carrier.

Many blind and visually impaired people do not take advantage of mobile technology because the service is either not accessible or affordable to them. The blind community experiences lower average incomes and higher unemployment rates than the general population. The Lifeline program can play an important role in increasing the number of blind and visually impaired people that benefit from mobile technology.

Currently, wireless eligible telecommunications carriers do not satisfy the needs of the blind community. Odin Wireless provides promise that this will change.

The American Council of the Blind commends the Commission on its efforts to make mobile technology more accessible.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Bridges". The signature is fluid and cursive, written over a white background.

Eric Bridges
Director of Advocacy and Governmental Affairs