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April 5, 2013

**VIA ECFS**

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

Re: Vast Companies, LLC dba Vast Communications  
Petition for Designation as an Eligible Telecommunications Carrier  
WC Docket No. 09-197

Dear Ms. Dortch:

Attached please find Vast Companies, LLC dba Vast Communications' Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas, the Commonwealth of Virginia, and the District of Columbia.

Please be advised that Attachment M Coverage Area is being filed as a separate document on the ECFS System.

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

Respectfully submitted,

/s/ LANCE STEINHART

Lance J.M. Steinhart, Esq.  
Lance J.M. Steinhart, P.C.  
Attorneys for Vast Companies, LLC

Attachments  
cc: Wilma Rickey

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

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

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

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April 5, 2013

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## TABLE OF CONTENTS

SUMMARY.....	iv
I. INTRODUCTION.....	1
II. BACKGROUND.....	3
A. Company Overview.....	3
B. Lifeline Program.....	4
C. Proposed Lifeline Offering.....	5
III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION.....	7
IV. VAST COMMUNICATIONS REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM.....	10
A. Vast Communications Requests ETC Designation in its Existing Service Area.....	10
B. Vast Communications' Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program.....	11
C. The Limited Designation Request is Consistent with Recent Precedent.....	11
V. VAST COMMUNICATIONS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC.....	13
A. Vast Communications is a Common Carrier.....	13
B. Vast Communications Will Provide the Supported Services Consistent With the Commission's Grant of Forbearance from Section 214's Facilities Requirements.....	14
C. Vast Communications Offers All of the Required Services and Functionalities.....	15
1. Voice Grade Access to the Public Switched Telephone Network.....	15
2. Local Usage.....	15
3. Access to Emergency Services.....	15
4. Toll Limitation for Qualifying Low-Income Consumers.....	16
D. Advertising of Supported Services.....	16
E. Service Commitment Throughout the Proposed Designated Service Area.....	17
F. Five-Year Network Improvement Plan.....	18
G. Ability to Remain Funcional in Emergency Situations.....	18
H. Commitment to Consumer Protection and Service Quality.....	18
I. Financial and Technical Capability.....	19

VI.	VAST COMMUNICATIONS WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE LIFELINE AND LINK-UP REFORM ORDER.....	20
A.	Consumer Eligibility and Enrollment .....	20
1.	One-Per-Household .....	20
2.	Initial and Annual Certification .....	22
3.	Annual Re-Certification.....	30
B.	Other Reforms to Eliminate Waste, Fraud and Abuse.....	32
1.	National Lifeline Accountability Database.....	33
2.	Subscriber Usage.....	34
3.	Marketing & Outreach.....	35
4.	Audits.....	36
C.	De-Enrollment .....	37
D.	Additional Rule Amendments .....	39
1.	Terms and Conditions of Service .....	39
2.	Reporting Requirements .....	39
3.	Reimbursement from USAC.....	39
VII.	DESIGNATION OF VAST COMMUNICATIONS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST .....	40
A.	Advantages of Vast Communications’ Service Offering.....	41
B.	The Benefits of Competitive Choice.....	42
C.	Impact on the Universal Service Fund .....	43
VIII.	ANTI-DRUG ABUSE CERTIFICATION.....	44
IX.	CONCLUSION .....	44

**TABLE OF ATTACHMENTS**

Attachment

Proposed Lifeline Rates.....A

Affirmative Statement of the Alabama Public Service Commission.....B

Affirmative Statement of the Connecticut Department of Public Utility Control.....C

Affirmative Statement of the Delaware Public Service Commission.....D

Affirmative Statement of the District of Columbia Public Service Commission.....E

Affirmative Statement of the Florida Public Service Commission .....F

Affirmative Statement of the New Hampshire Public Utilities Commission.....G

Affirmative Statement of the New York Public Service Commission .....H

Affirmative Statement of the North Carolina Utilities Commission .....I

Affirmative Statement of the Tennessee Regulatory Authority .....J

Affirmative Statement of the Texas Public Utility Commission.....K

Affirmative Statement of the Virginia Corporation Commission .....L

Coverage Area.....M

Vast Companies, LLC’s Compliance Plan.....N

## SUMMARY

Vast Companies, LLC dba Vast Communications (“Vast Communications”) is seeking limited designation as an Eligible Telecommunications Carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”) pursuant to Section 214(e)(6) of the Communications Act, solely for purposes of offering services supported by the Universal Service Fund’s (“USF”) Lifeline program. Vast Communications will provide prepaid wireless telecommunications services to consumers as a Mobile Virtual Network Operator (“MVNO”). Vast Communications will utilize Ready Wireless, LLC (“Ready Wireless”) as its Mobile Virtual Network Enabler (“MVNE”). In addition to providing critical MVNE services, Ready Wireless will be Vast Communication’s intermediary with Verizon Wireless (“Verizon”) for network services. Vast Communications will purchase access to the extensive, nationwide network of Verizon, including voice, text and data, directly from Ready Wireless. Each Non-Jurisdictional State has provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designation. Accordingly, pursuant to Section 214(e)(6), the Commission has the authority to designate Vast Communications as an ETC in the Non-Jurisdictional States.

Vast Communications meets all of the requirements under Section 214(e)(1) for the limited ETC designation requested herein except for providing service, at least in part, using its own facilities. However, the Commission granted forbearance from enforcement of this facilities requirement to carriers seeking Lifeline-only ETC designation in its Lifeline and Link-Up

Reform Order released February 6, 2012.<sup>1</sup> Through its contracts with underlying carriers, Vast Communications has the ability to offer all of the services and functionalities supported by the USF and set forth in Section 54.101(a) of the Commission's rules. Vast Communications therefore respectfully requests that the Commission promptly approve the instant request for limited ETC designation to enable the Company to rapidly provide Lifeline services to qualifying customers in the Non-Jurisdictional States.

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

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

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

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Alabama, Connecticut, Delaware, Florida, New )  
Hampshire, North Carolina, New York, )  
Tennessee, Texas, the Commonwealth of )  
Virginia, and the District of Columbia )

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

**I. INTRODUCTION**

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

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

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<sup>2</sup> See 47 U.S.C. § 214(e)(6).

<sup>3</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

<sup>4</sup> See supra note 1.

## II. BACKGROUND

### A. Company Overview

Vast Communications is an Oklahoma limited liability company.<sup>5</sup> Vast Communications will provide prepaid wireless telecommunications services to consumers as a Mobile Virtual Network Operator (“MVNO”). Vast Communications will utilize Ready Wireless, LLC (“Ready Wireless”) as its Mobile Virtual Network Enabler (“MVNE”). In addition to providing critical MVNE services, Ready Wireless will be Vast Communication’s intermediary with Verizon Wireless (“Verizon”) for network services. Pursuant to this agreement, Vast Communications will obtain from Verizon the network infrastructure, including wireless transmission facilities, to allow Vast Communications to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone and Virgin Mobile, both of whom have been granted ETC status by the Commission.<sup>6</sup> Vast Communications will purchase access to the extensive, nationwide network of Verizon, including voice, text and data, directly from Ready Wireless, and then package those services into Vast Communications’ own service plans and pricing, and bundle those service with Vast Communications’ handset selection, mobile applications, marketing materials, web interface, and customer service to produce finished wireless service offerings to sell to end-user customers.

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<sup>5</sup> The Company was organized in the State of Oklahoma on October 25, 2012.

<sup>6</sup> *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and Washington D.C.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (“*TracFone ETC Order*”); *Petition of Virgin Mobile USA, L.P. for Forbearance from 47 U.C.S. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (“*Virgin Mobile Order*”). The Commission had previously granted TracFone forbearance from the facilities requirement for ETC designation, permitting TracFone to offer the supported services via resale only. *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (“*TracFone Forbearance Order*”). The *Virgin Mobile Order* contained both the forbearance analysis and ETC designation.

Vast Communications will provide affordable, easy-to-use, prepaid wireless services that are attractive to low-income consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family as well as 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, Vast Communications will expand the availability of wireless services to many more low-income consumers, which is one of the principal objectives of Congress' universal service program as codified in Section 254 of the Act, 47 U.S.C. § 254.

Vast Communications 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 MVNOs' customers, Vast Communications anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. Vast Communications does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

## **B. Lifeline 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 codified that commitment in 1996, and embodies the Commission's historical commitment to the concept of universal service, including for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers,

have access to telecommunications services at affordable and reasonably comparable rates.<sup>7</sup> As part of those universal service support programs, Lifeline support helps defray the monthly costs of telecommunications services for low-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.<sup>8</sup>

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted telephone subscription among low-income consumers as one area for improvement.<sup>9</sup> To increase awareness of the program, the Commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation because "When consumers are able to only intermittently remain on the network, they are not fully connected to society and the economy...The Commission has found that the low-income program 'provide[s] the best source of assistance for individuals to obtain and retain universal service, and, therefore, help maintain and improve telephone subscribership' and fulfill our obligations under Section 254 of the Act."<sup>10</sup>

### **C. Proposed Lifeline Offering**

Vast Communications intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. Attached

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<sup>7</sup> 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).

<sup>8</sup> 47 C.F.R. §§ 54.400 and 54.401.

<sup>9</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 27-30; See also *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 ¶ 1 (2004) ("Lifeline Order").

<sup>10</sup> See *Lifeline and Link-Up Reform Order* at ¶ 16.

hereto as Attachment A is a table of the Company's rate plans, showing that the Company's Lifeline offering will provide eligible customers a discount on the Company's various retail plan choices.<sup>11</sup> These plans are intended to meet customers' unique communication needs and grow with them as their needs change, including from Lifeline subsidized plans to retail plans when their circumstances change.

1. Unlimited Voice & Text. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages.
2. Unlimited Voice & Text with 100MB Data. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages as well as 100MB of Data.
3. Unlimited Voice & Text with 500MB Data. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages as well as 500MB of Data.

Customers have the option of purchasing additional data for as low as 5 cents per 1,000 KB of data. Additional data will be made available for purchase at retail outlets frequented by low-income customers throughout the Company's Service Area, as well as via Customer Service over the phone or online. The following Custom Calling features are provided to all customers at no additional cost: Voicemail, Caller ID, and Call Waiting.

The Company's Lifeline plans will also include a free handset or an upgrade option. Lifeline customers can choose to receive a free Vast Communications phone. These phones will be voice, text, and data capable, typically flip or simple "candy bar" style phones. These phones will be quality, refurbished phones that have been fully tested for reliability. These phones, however, will not be recommended for the Company's Unlimited Voice & Text with 500MB

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<sup>11</sup> The discount applied to a Lifeline customer's account is equal to any applicable federal subsidies plus any additional Company discount offered at the time. As of the date of filing this Revised Compliance Plan, the federal subsidy is \$9.25, with an additional \$25 available for Tribal Lifeline.

Data Plan due to limited data speeds and limited data functionality. Lifeline customers can also choose the upgrade option; Vast Communications will provide Lifeline customers with a credit towards the retail purchase of a higher-end Vast Communications phone. These phones will give Lifeline customers faster data speeds and greater data and application capability options. The Lifeline customer is responsible for paying the remaining price of the phone after the credit is applied. Under both options, customers will receive a replacement phone if the phone malfunctions due to a defect. Customers who misuse or lose their device or inadvertently break their device will be given the option of buying a replacement phone. Customers may also receive a replacement phone after 12 months of Vast Communications' service, irrespective of their phones' condition.

Vast Communications does not impose burdensome credit checks or long-term service contracts on its customers. Customers are not bound by a local calling area requirement; all Vast Communications plans come with domestic long distance at no extra per minute charge and exceptional nationwide digital coverage. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. Calls to the Company's Customer Service and directory assistance (411) are also free. Vast Communications has attached as Attachment N, Exhibit C its Lifeline terms and conditions of service. The most current terms and conditions of the Company's plans can always be found on the Company's website at [www.vastphone.com](http://www.vastphone.com).

### **III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION**

Pursuant to Section 214(e)(6), the Commission may designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the

jurisdiction of a state commission.”<sup>12</sup> The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before it may consider an application for ETC designation.<sup>13</sup> The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.”<sup>14</sup>

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

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

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

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

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<sup>12</sup> See 47 U.S.C. § 214(e)(6).

<sup>13</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>14</sup> See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

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

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

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

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

h) The North Carolina Utilities Commission has concluded that "the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC." A copy of the North Carolina Utilities Commission's Order is attached as Attachment I.

i) The Tennessee Regulatory Authority has concluded that its statutory "lack of jurisdiction over CMRS providers" precludes it from processing ETC petitions. A copy of the Tennessee Regulatory Authority's order is attached as Attachment J.

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

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

Accordingly, for each of the Non-Jurisdiction States, Vast Communications is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>15</sup> As such, the Commission is authorized to designate Vast Communications as an Eligible Telecommunications Carrier.

#### **IV. VAST COMMUNICATIONS REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM**

##### **A. Vast Communications Requests ETC Designation in its Existing Service Area**

Consistent with prior orders granting other MVNOs ETC status,<sup>16</sup> Vast Communications requests ETC designation for its entire service area in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, North Carolina, New York, Tennessee, Texas, and Virginia (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service).<sup>17</sup> Vast Communications understands that its service area overlaps with several rural carriers’ service areas but maintains that the public interest factors described below justify its

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<sup>15</sup> 47 U.S.C. § 214(e)(6).

<sup>16</sup> See *TracFone ETC Order* and *Virgin Mobile Order*, *supra* note 6.

<sup>17</sup> See Attachment M for chart reflecting the service areas of the non-rural and rural telephone companies that Vast Communications’ authorized service area covers in the Non-Jurisdictional States. Due to the magnitude of Attachment M, it is being filed as a separate document on the FCC’s ECFS System.

designation in these service areas, especially since it only seeks ETC designation for purposes of participation in the Lifeline program.

**B. Vast Communications' Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program**

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

**C. The Limited Designation Request is Consistent with Recent Precedent**

Vast Communications' request for designation to participate in the Lifeline program is consistent with the Commission's recent decisions conditionally designating TracFone Wireless and Virgin Mobile as ETCs in several states.<sup>18</sup> In its decisions, the Commission determined that the requests of TracFone and Virgin Mobile satisfied all of the eligibility requirements and that designation would serve the public interest.<sup>19</sup> The Commission specifically noted in the

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<sup>18</sup> See *supra* note 6.

<sup>19</sup> See *TracFone ETC Order*, 23 FCC Rcd at 6212-13 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

*TracFone* and *Virgin Mobile Orders* that designation of prepaid wireless providers as ETCs will provide a variety of benefits to low-income consumers, including increased consumer choice, high-quality service offerings and mobile access to emergency services on wireless devices.<sup>20</sup>

Vast Communications requests that the Commission expeditiously process its pending ETC applications so that it can quickly join TracFone and Virgin Mobile in providing qualifying low-income customers with affordable USF-supported Lifeline wireless services. Designation of prepaid wireless providers such as TracFone, Virgin Mobile and Vast Communications as ETCs is a significant step towards ensuring that all customers, particularly low-income customers, share in the many benefits associated with access to affordable wireless telecommunications services. During an economic downturn, many existing wireless customers have to forego wireless services because they can no longer afford them. Designation of ETC status to prepaid wireless carriers like TracFone, Virgin Mobile and Vast Communications helps to close the widening gap for wireless services and provide low-income customers with the significant advantages associated with access to wireless services. The Commission has found that voice service has “become crucial to full participation in our society and economy, which are increasingly dependent upon the rapid exchange of information.”<sup>21</sup> As noted in a study sponsored by the Massachusetts Institute of Technology’s Legatum Center for Development and Entrepreneurship and New Millennium Research Council, low-income customers receive significant economic and social benefits from wireless services, including enhanced productivity,

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<sup>20</sup> *See Id.*

<sup>21</sup> *See Lifeline and Link Up Reform Order* at ¶ 12.

increased economic opportunity, and broader access to emergency and safety services.<sup>22</sup> Wireless service, through the Lifeline program, provides mobility to low-income consumers which is crucial given the large reduction in the availability of payphones.

## **V. VAST COMMUNICATIONS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the Commission has forborne from the "own facilities" requirement. Applicants also must commit to advertise the availability and rates of such services.<sup>23</sup> As detailed below, Vast Communications satisfies each of the above-listed requirements.

### **A. Vast Communications is a Common Carrier**

CMRS resellers like Vast Communications are common carriers.<sup>24</sup>

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<sup>22</sup> Nicholas P. Sullivan, New Millennium Research, *Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys*, (April 2008), available at [http://newmillenniumresearch.org/archive/Sullivan\\_Report\\_032608.pdf](http://newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf).

<sup>23</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

<sup>24</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.") (emphasis added).

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

Although Section 214 requires ETCs to provide services using their facilities, at least in part, the Commission has forbore from that requirement with respect to carriers such as Vast Communications. In the *Lifeline and Link Up Reform Order*, the Commission granted forbearance from the “own-facilities” requirement contained in Section 214(e)(1)(A) for carriers that are, or seek to become, Lifeline-only ETCs, subject to the following conditions:<sup>25</sup>

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

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

Vast Communications will avail itself of the FCC’s grant of blanket forbearance.<sup>26</sup> In accordance with the *Lifeline and Link Up Reform Order*, Vast Communications filed its Compliance Plan with the FCC on December 5, 2012; the Company filed a Revised Compliance Plan on January 29, 2013. A copy of its Revised Compliance Plan is attached to this Petition as

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<sup>25</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 368, 373 and 379.

<sup>26</sup> Although the Company qualifies for and seeks to avail itself of the Commission’s grant of forbearance from the facilities requirement of section 214(e)(1)(A), the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state, particularly for purposes of state universal service funding under state program rules and requirements. The Company will follow the requirements of the Commission’s Lifeline rules and its Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low-Income fund.

Attachment N. Vast Communications commits to providing Lifeline service in the Non-Jurisdictional States in accordance with the Compliance Plan, as revised.<sup>27</sup>

### **C. Vast Communications Offers All of the Required Services and Functionalities**

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

#### **1. Voice Grade Access to the Public Switched Telephone Network**

Vast Communications provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Verizon through Ready Wireless.

#### **2. Local Usage**

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer.<sup>28</sup> Vast Communications offers a variety of rate plans that include minutes of use for, among other things, local service.

#### **3. Access to Emergency Services**

Vast Communications provides nationwide access to 911 and E911 emergency services

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<sup>27</sup> To the extent that future changes in federal regulations render the commitments made in the Compliance Plan invalid, the Company reserves the right to modify its operations in accordance with federal regulations in effect at that time.

<sup>28</sup> See e.g., *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision 15 FCC Rcd 7331 (2002).

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

#### **4. Toll Limitation for Qualifying Low-Income Consumers**

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.<sup>29</sup> “ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.”<sup>30</sup> Nonetheless, Vast Communications’ offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. Vast Communications’ service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. Vast Communications will not seek reimbursement for toll limitation service.

#### **D. Advertising of Supported Services**

Vast Communications will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the Commission’s regulations,<sup>31</sup> and in accordance with the requirements set forth in the *Lifeline and Link Up Reform Order*.<sup>32</sup> The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline services, using media of general distribution that may include advertisements via public transit signage and signage in other areas frequented

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<sup>29</sup> See *Lifeline and Link Up Reform Order* at ¶ 367.

<sup>30</sup> See *Lifeline and Link Up Reform Order* at ¶ 49.

<sup>31</sup> See 47 C.F.R. § 54.201.

<sup>32</sup> See *Lifeline and Link Up Reform Order* at Section VII.F.

by low-income individuals. These advertising campaigns will be specifically targeted to reach low-income customers, promoting the availability of cost-effective wireless services to this neglected consumer segment.

In addition, Vast Communications will utilize retail as well as government, nonprofit agency, and community partners to help promote the availability of its Lifeline plans, especially those retail outlets that are frequented by low-income consumers. Vast Communications will provide retail vendors, where Vast Communications products are sold, as well as government, nonprofit agency, and community partners, with signage and printed materials, such as informative brochures, describing Vast Communications' Lifeline program. Vast Communications expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

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

**E. Service Commitment Throughout the Proposed Designated Service Area**

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

after receiving approval from the Commission. Vast Communications commits to comply with the service requirements applicable to the support that it receives.<sup>33</sup>

#### **F. Five-Year Network Improvement Plan**

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.<sup>34</sup>

#### **G. Ability to Remain Functional in Emergency Situations**

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

#### **H. Commitment to Consumer Protection and Service Quality**

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable

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<sup>33</sup> See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

<sup>34</sup> See *Lifeline and Link Up Reform Order* at ¶ 386.

consumer protection and service quality standards.<sup>35</sup> The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Vast Communications commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

### **I. Vast Communications is Financially and Technically Capable**

Vast Communications is financially and technically capable of providing Lifeline-supported services.<sup>36</sup> Vast Communications will provide service to both Lifeline and non-Lifeline customers. The Company plans to launch its retail and Lifeline services simultaneously. Vast Communications is financially able to provide Lifeline-supported services and will not rely exclusively on USF disbursements to operate. In the event that USAC ceases disbursements for a period of time, the Company will still be able to provide service to its customers. The Company has secured sufficient initial investment funds that it will rely on for start-up operations in the first year. The Company has access to additional investment funds if needed. Because of the way the Company's rate plans are structured, the Company will obtain revenue from Lifeline and retail customers alike. The Company anticipates retail revenue from non-Lifeline customers as well as customer phone upgrades, data top-ups, and sales from accessories in future storefront locations. Vast Communications has not been subject to enforcement action or ETC revocation proceedings in any state. Furthermore, the senior management of Vast Communications has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.<sup>37</sup> Vast Communications will be providing resold wireless

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<sup>35</sup> See 47 C.F.R. § 54.202(a)(3).

<sup>36</sup> See *Lifeline and Link Up Reform Order* at ¶ 387.

<sup>37</sup> See Attachment N, Exhibit F for key management profiles.

service, and therefore will also rely upon the managerial and technical expertise of its MVNE, Ready Wireless, and its underlying carrier, Verizon.

## **VI. VAST COMMUNICATIONS WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE LIFELINE AND LINK-UP REFORM ORDER**

### **A. Consumer Eligibility and Enrollment**

Vast Communications will certify and verify consumer eligibility for Lifeline in accordance with its Compliance Plan, which outlines how the Company will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer eligibility, Vast Communications will rely on the state identification or database.<sup>38</sup> In instances where Vast Communications is responsible for the initial determination and annual recertification of consumer eligibility, the Company will follow the procedures set forth below.

#### **1. One-Per-Household**

Vast Communications understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as “any individual or group of individuals who are living together at the same address as one economic unit.”<sup>39</sup> Upon receiving an application for Lifeline support, Vast Communications will check the National Lifeline Accountability Database (“NLAD”), once in place, to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. Vast Communications will also search its own internal database of active customers, real-time, pre-sale, to ensure that it does not already provide Lifeline-supported service to someone at that

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<sup>38</sup> See *Lifeline and Link Up Reform Order* at ¶ 98.

<sup>39</sup> See *Lifeline and Link Up Reform Order* at ¶ 74.

residential address. If Vast Communications determines that an individual at the applicant's address is currently receiving Lifeline-supported service, Vast Communications will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, Vast Communications will require applicants to complete and submit to the Company USAC's one-per-household template, which will contain the following: (1) an explanation of the Commission's one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant's household and share in the household's expenses or benefit from the applicant's income; and (4) the penalty for a consumer's failure to make the required one-per-household certification (i.e., de-enrollment).<sup>40</sup> Vast Communications will deny the Lifeline application of any individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

On its certification forms, a draft sample of which is attached,<sup>41</sup> Vast Communications will obtain a consumer's permanent residential address (which cannot be a P.O. Box or General Delivery address), unless they only have a temporary address, and a billing address for the service, if different (which may include a P.O. Box or General Delivery address).<sup>42</sup> Vast Communications will inquire on its certification forms whether or not the applicant's address is a

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<sup>40</sup> See *Lifeline and Link Up Reform Order* at ¶ 78.

<sup>41</sup> See Attachment N, Exhibit A. The draft form remains subject to change, but substantially reflects the content of the Company's application.

<sup>42</sup> See *Lifeline and Link Up Reform Order* at ¶ 85.

temporary one.<sup>43</sup> If and when the 90-day verification rules become effective, Vast Communications will notify the consumer that if they have a temporary address, the Company will contact the consumer every 90 days, by phone or text, to verify that he or she continues to rely on that address, and that if the consumer fails to respond within 30 days of Vast Communications' attempt to verify the temporary address, he or she will be de-enrolled from the Lifeline program.<sup>44</sup> Also on its certification forms, Vast Communications will explain that if the subscriber moves, they must provide their new address to the Company within 30 days of moving.<sup>45</sup> If the subscriber has moved, Vast Communications will update the NLAD, once in place, with the information within 10 business days of receipt of the information.<sup>46</sup>

As the following details, Vast Communications' certification form will clearly explain the one-per-household requirement and all consumers must certify that they receive Lifeline support for a single subscription per household.

## **2. Initial and Annual Certification**

Vast Communications' policies, procedures and controls will help ensure that only eligible customers are enrolled in the Lifeline program and that regulatory requirements are adhered to. Consumers will be signed up in person, or directed, via company literature, collateral or advertising, to a toll-free telephone number and to the Company website, which will provide information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Vast Communications' application form will identify that it is a "Lifeline" application. Vast Communications will provide Lifeline-specific training to all

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<sup>43</sup> See *Lifeline and Link Up Reform Order* at ¶ 89.

<sup>44</sup> See *id.* As of the date of filing of this Petition, this requirement has not been approved pursuant to the Paperwork Reduction Act.

<sup>45</sup> See *Lifeline and Link Up Reform Order* at ¶ 85.

<sup>46</sup> See *id.*

personnel, whether employees, agents or representatives, that interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services.

Vast Communications' initial and annual certification forms will conform to the list of requirements provided in the *Lifeline and Link Up Reform Order*, Appendix C and C.F.R. § 54.410(d), as amended.<sup>47</sup> The Company's Lifeline certification forms, a draft sample of which is provided in Attachment N as Exhibit A, will require each prospective subscriber to provide the following information:

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

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

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

Vast Communications will require all consumers, at sign up and annually thereafter, to certify

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<sup>47</sup> See *Lifeline and Link Up Reform Order* at pp. 227-29.

under penalty of perjury that:

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

Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements. Consumers who do not complete the application process in person must return the signed application and support documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures, including Interactive Voice Response (IVR) recordings, that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.<sup>48</sup>

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<sup>48</sup> See *Lifeline and Link Up Reform Order* at ¶ 168.

Enrollment in person. The Company will primarily enroll Lifeline applicants in person in community-based structures in partnership with community organizations. When a prospective customer applies for Lifeline service, Company employees, agents or representatives (“personnel”) will ask to see a government issued ID and will validate the address via a USPS/Melissa Database. The Company will check the National Lifeline Accountability Database, once it is available. Until that time, the Company will input the name/address combination into CGM, LLC’s aggregate duplicate database (see section III.D below) to confirm that the applicant is not already receiving a Lifeline subsidy from Vast Communications or any other CGM client that has agreed to share their data. If the customer indicates on the application form that their address is a multi-household residence, personnel will require the applicant to complete USAC’s one-per-household worksheet as well. In cases where an eligibility database exists, personnel will query the database to determine eligibility. In states where eligibility databases are not available, the applicant is required to provide proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. Vast Communications’ Lifeline application contains an “Office Use Only” section, which must be completely filled out and signed by Company personnel in order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps) and a unique identifier (last 3 digits of document ID). Eligibility documents are returned to the customer after review. Finally, Vast Communications personnel will verbally review all certifications and disclosures with the applicant before they sign the application form, making sure the applicant verbally acknowledges each required certification before moving on to the next. Upon successful completion of the certification process, the customer is allowed to receive their free phone in person. In instances where eligibility databases cannot be accessed in real-

time, Vast Communications will mail the phone to eligible customers once verification of eligibility is complete. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company's system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer's selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer's allotted minutes.

Enrollment by phone. With respect to those enrolling via the phone, Company personnel are able to verbally explain the Lifeline program and its eligibility requirements, including required information and disclosures. The Company call center representative will either instruct the potential customer to download an application or mail the application to the potential customer. When the signed application is received, it will be reviewed for required information. If the applicant indicates on the application form that their address is a multi-household residence, personnel will require the applicant to complete USAC's one-per-household worksheet as well. If no eligibility database is available, personnel will advise the applicant that they are required to provide proof of identity verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to the Company as well as what documentation satisfies the proof requirement. The Company will qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). If no eligibility database is available, the application will be placed in a "hold" status until the Company receives copies of the applicant's proof documentation, at which point Company personnel will review the documentation and complete the "Office Use Only" section of the application form, which must be completely filled out and signed by personnel in

order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e., Food Stamp/SNAP benefit award letter) and a unique identifier (last 3 digits of document ID). Vast Communications will destroy copies of proof documentation and deliver phones to eligible customers by mail. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company's system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer's selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer's allotted minutes.

Enrollment online. Vast Communications will not be immediately enrolling customers online. However, the Company may launch this capability at some point in the future. If and when the Company begins enrolling via the Internet, prospective customers will be able to fill out an application form online and sign electronically. Vast Communications will highlight the certifications that are required, for example, by requiring consumers to acknowledge each certification before moving on to the next field. If the customer indicates that their address is a multi-household residence, online interface will require the applicant to complete USAC's one per-household worksheet as well. The Company will qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). If no eligibility database is available, the online interface will advise the applicant that they are required to provide proof of identity verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to the Company as well as what documentation qualifies as proof of benefits. If no eligibility database is available,

the application will be placed in a “hold” status until the Company receives copies of the applicant’s proof documentation and government-issued ID, at which point Company personnel will review the documentation and complete the “Office Use Only” section of the application form, which must be completely filled out and signed by personnel in order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps/SNAP benefit award letter) and a unique identifier (last 3 digits of document ID). Vast Communications will destroy copies of proof documentation and deliver phones to eligible customers by mail. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company’s system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer’s selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer’s allotted minutes.

Vast Communications will determine eligibility utilizing the income and program criteria currently utilized by federal default states (47 C.F.R. § 54.409(a),(b)), as well as any additional state-specific criteria. Prior to enrolling a new subscriber, Vast Communications will check the eligibility of low-income consumers first by accessing state or federal social services electronic eligibility databases, where available.<sup>49</sup> If a database is used to establish eligibility, Vast Communications will not require documentation of the consumer’s participation in a qualifying federal program; instead, Vast Communications or its representative will note in its records what

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<sup>49</sup> See *Lifeline and Link Up Reform Order* at ¶ 97.

specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.<sup>50</sup> However, in states where there is no state administrator, the state commission or other state agency is not making eligibility determinations, and there is no automated means for Vast Communications to check electronic databases for eligibility, Vast Communications will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.<sup>51</sup> Vast Communications will require acceptable documentation both for income eligibility and for program eligibility. The Company will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility.<sup>52</sup> Vast Communications understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases Vast Communications remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.<sup>53</sup>

Personnel Training and Quality Control. Company personnel will use an electronic, system-based application designed to validate and capture enrollment information, walking through the requirements step-by-step. Vast Communications will provide Lifeline-specific training to all employees, agents, and representatives. Such training will be designed to give personnel an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a customer's eligibility to participate in the Lifeline program under the Commission's rules. The Company will employ

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<sup>50</sup> See *Lifeline and Link Up Reform Order* at ¶ 98.

<sup>51</sup> See *Lifeline and Link Up Reform Order* at ¶ 99.

<sup>52</sup> See *Lifeline and Link Up Reform Order* at ¶ 101.

<sup>53</sup> See *Lifeline and Link Up Reform Order* at ¶ 110.

agents to sign customers up in some locations. Among other things, the Lifeline program training will discuss the Company's Lifeline application form (see Attachment N, Exhibit A) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate the ability of employees, agents, or representatives to explain each item contained therein and answer any customer questions. Training will be in-person or via an attendance registered, live online workshop conducted by Vast Communications' employees who have already completed such training. No Company employee, agent, or representative may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Before any Company personnel are permitted to step into customer-facing roles, they must pass a test to ensure they fully grasp the program's rules and requirements. Agents will be very tightly screened, thoroughly trained and closely monitored. Because Vast Communications is responsible for the actions of all of its personnel, including those enrolling customers in any Company-owned, community-based, or third-party location, and a Company employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company always "deals directly" with its customers to certify and verify all customers' Lifeline eligibility. Agent performance, based on a secondary approval rate, will be tracked and monitored. Agents with a secondary approval rate below 98% will receive re-training. Habitual offenders will be removed from Vast Communications' Approved Agent list.

### **3. Annual Re-Certification**

Vast Communications understands that it must re-certify the eligibility of its entire Lifeline subscriber base as of June 1, 2012 by the end of 2012 and report the results to USAC by January 31, 2013, and the Company may elect to perform this re-certification on a rolling basis

throughout the year.<sup>54</sup> By December 31, 2012, Vast Communications will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.<sup>55</sup> The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact the Company. Vast Communications will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended, as detailed in section VI.A.2 above. The Company will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Vast Communications understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more of such options for its certifications.<sup>56</sup>

Alternatively, where a database containing consumer eligibility data is available, Vast Communications (or state agency or third-party, where applicable) will instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the state data, Vast Communications will contact the subscriber every year during the annual certification process to obtain a valid address.<sup>57</sup> After 2012, Vast Communications will continue to annually certify the continued eligibility of its entire subscriber base, either by accessing a qualifying database, or by electing to have USAC administer the self-certification process on the

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<sup>54</sup> See *Lifeline and Link Up Reform Order* at ¶ 130.

<sup>55</sup> See *id.*

<sup>56</sup> See *Lifeline and Link Up Reform Order* at ¶ 132.

<sup>57</sup> See *Lifeline and Link Up Reform Order* at ¶ 131.

Company's behalf.<sup>58</sup>

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

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

(2) that the Company is in compliance with all federal Lifeline certification procedures.<sup>59</sup>

**B. Other Reforms to Eliminate Waste, Fraud and Abuse**

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

Vast Communications has implemented enrollment procedures designed to prevent subsidies for duplicate, ineligible, or inactive subscribers. The Company contracts with a third party Lifeline service bureau, currently CGM, LLC of Roswell, Georgia, to edit all subsidy request data.

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<sup>58</sup> See *Lifeline and Link Up Reform Order* at ¶ 133.

<sup>59</sup> See *Lifeline and Link Up Reform Order* at ¶ 126-27.

CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described herein, Vast Communications ensures that it does not over-request from support funds.

As detailed in section IV.A.2, Vast Communications first validates each applicant's identity via a government issued ID card, passport, etc. Additionally, as mentioned above, Vast Communications requires the applicant to provide their date of birth (DOB) and last four digits of their social security number (SSN). Requiring DOB and SSN ensures that neither the applicant nor the Company representative can forge certification forms based on false names and addresses. Once the applicant's identity is confirmed, Vast Communications verifies that the applicant is eligible to receive the Lifeline subsidy. To do this, Vast Communications checks any available eligibility database. If one is not available, the applicant is required to provide proof of eligibility. This prevents ineligible applicants from receiving the subsidy.

Vast Communications validates the applicant's address via a USPS/Melissa Database to ensure the address is correct. The Company will check the NLAD, once it is available; until that time, the Company will dip the name/address combination into CGM's aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from Vast Communications or any other CGM client that has agreed to share their data. This prompts the representative to detail the one-per-household rule with the applicant.

#### **1. National Lifeline Accountability Database**

Vast Communications will participate in the NLAD, once it is established. As required by

the *Lifeline and Link Up Reform Order*, Vast Communications will provide to the NLAD subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date (when applicable), and amount of federal Lifeline support being sought for that subscriber.<sup>60</sup> Vast Communications will provide the information listed above for existing subscribers within 60 days of Commission notice that the NLAD is capable of accepting subscriber information.<sup>61</sup>

Furthermore, on its certification form, Vast Communications will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to USAC (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.<sup>62</sup>

Within 30 days following Commission notice that the NLAD is capable of accepting queries, Vast Communications will query the NLAD to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Fund.<sup>63</sup>

## **2. Subscriber Usage**

Vast Communications will not seek reimbursement from the USF for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, Vast Communications will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.

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<sup>60</sup> See *Lifeline and Link Up Reform Order* at ¶ 189.

<sup>61</sup> See *Lifeline and Link Up Reform Order* at ¶ 190.

<sup>62</sup> See *Lifeline and Link Up Reform Order* Appendix C.

<sup>63</sup> See *Lifeline and Link Up Reform Order* at ¶ 203.

<sup>64</sup> Vast Communications will notify its subscribers at service initiation, via the certification form and via script that is reviewed with every customer, about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.<sup>65</sup> An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.<sup>66</sup> Vast Communications utilizes tracking software to notify the customer if the customer has not used their service for more than 30 or 60 consecutive days. Furthermore, a third party contractor validates the Company's subsidy data to prevent a subsidy request for customers that are inactive under the Company's non-usage policy.<sup>67</sup> After notification, if the customer fails to use the phone, it is automatically de-enrolled pursuant to the procedures outlined in section VI.C below. Vast Communications will continue to comply with applicable public safety, including transmitting 911 calls to the appropriate PSAP even if the Company is no longer providing Lifeline service to a consumer.<sup>68</sup>

### **3. Marketing & Outreach**

Vast Communications will implement the measures outlined herein to help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the

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<sup>64</sup> See *Lifeline and Link Up Reform Order* at ¶ 257.

<sup>65</sup> See *id.*

<sup>66</sup> See *Lifeline and Link Up Reform Order* at ¶ 261.

<sup>67</sup> CGM, LLC is currently the Company's third party contractor.

<sup>68</sup> See *Lifeline and Link Up Reform Order* at ¶ 262. 911 transmissions will actually be performed by the Company's underlying facilities-based CMRS provider.

limitations of the program, so as to prevent duplicative or otherwise ineligible service as well as other forms of waste, fraud, and abuse. Vast Communications will explain in clear, easily understood language substantially the following disclosures in all marketing materials related to the supported service:<sup>69</sup> (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. Vast Communications' website and printed collateral will also explain the documentation necessary for enrollment, and the details of Vast Communications' plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.<sup>70</sup> For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, Vast Communications will include the URL link for its website where disclosures will be listed. Additionally, Vast Communications will disclose the company name under which it does business.<sup>71</sup>

#### **4. Audits**

The *Lifeline and Link Up Reform Order* requires ETCs that draw \$5 million or more in the aggregate on an annual basis from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, to hire an independent

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<sup>69</sup> See Attachment N, Exhibit B for a sample advertisement. The Company understands the term "marketing materials" includes materials in all media, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the Lifeline-supported service offering, including application and certification forms. See *Lifeline and Link Up Reform Order* at ¶ 275.

<sup>70</sup> See *Lifeline and Link Up Reform Order* at ¶ 275.

<sup>71</sup> See *id.*

licensed certified public accounting firm to conduct a biennial audit according to government accounting standards to assess the ETC's overall compliance with the program's requirements.<sup>72</sup> Vast Communications will comply with this requirement if and when it is approved, including applicable rules regarding the dissemination of audit findings to the Commission, USAC, and relevant state and Tribal governments within 30 days upon issuance.<sup>73</sup>

### **C. De-Enrollment**

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

Ineligibility. Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).<sup>74</sup>

If a customer does not respond to the Company's annual verification survey within 30 days, or if Vast Communications has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs the Company or the

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<sup>72</sup> See *Lifeline and Link Up Reform Order* at ¶ 291.

<sup>73</sup> See *Lifeline and Link Up Reform Order* at ¶ 294. As of the date of filing of this Petition, the audit requirement has not been approved pursuant to the Paperwork Reduction Act.

<sup>74</sup> See *Lifeline and Link Up Reform Order* at ¶ 122.

state that he or she is ineligible for Lifeline), Vast Communications will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.<sup>75</sup> Similarly, Vast Communications will de-enroll a subscriber if they fail to respond to the Company's attempt to verify a temporary address within 30 days.<sup>76</sup>

Duplicative Support. Subject to USAC's Duplicate Resolution Process and anticipated Duplicate Scrubbing Process,<sup>77</sup> Vast Communications will de-enroll a subscriber within 5 business days if the Company is informed by USAC that the subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service.

Non-Usage. Vast Communications will de-enroll any subscriber that has not used the Company's Lifeline service for 60 consecutive days, as discussed in section VI.B.2 above. Vast Communications will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be initiated after 30-days of non-usage. Vast Communications will update the national database, once in place, within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.<sup>78</sup>

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<sup>75</sup> See *id.* In states that have dispute resolution procedures applicable to Lifeline termination, the Company will comply with the state requirements.

<sup>76</sup> See *Lifeline and Link Up Reform Order* at ¶ 89.

<sup>77</sup> See *Lifeline and Link Up Reform Order* at ¶ 214-16.

<sup>78</sup> See *Lifeline and Link Up Reform Order* at ¶ 257.

## **D. Additional Rule Amendments**

### **1. Terms and Conditions of Service**

Vast Communications' Lifeline terms and conditions of service are provided in Attachment N as Exhibit C. These terms and conditions are subject to change as needed, and the most current version may be found at [www.vastphone.com](http://www.vastphone.com). The terms and conditions of the Company's retail plans, as available to the public can also be found at [www.vastphone.com](http://www.vastphone.com).

### **2. Reporting Requirements**

Vast Communications will report all information required by section 54.422, including as it may heretofore be amended. This includes the names of the Company's holding company, operating companies and affiliates, and any branding ("doing-business-as company" or brand designation), and provide to the Commission and USAC general information regarding the terms and conditions of the Lifeline plans for voice telephony service offered specifically for low-income consumers through the program offered during the previous year, including the number of minutes provided, and whether there are additional charges to the consumer for service, including minutes of use and/or toll calls.<sup>79</sup>

### **3. Reimbursement from USAC**

In seeking reimbursement for Lifeline, Vast Communications will comply with the requirements of C.F.R. § 54.407, as revised by the *Lifeline and Link Up Reform Order*.<sup>80</sup> Vast Communications will certify when seeking reimbursement that the Company has obtained a valid

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<sup>79</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 296, 390. Section 153 of the Act defines "affiliate" as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

<sup>80</sup> See *id* page 221.

certification form for each consumer for whom the Company seeks Lifeline reimbursement,<sup>81</sup> and the Company will seek reimbursement for actual lines served, not projected lines.<sup>82</sup>

## **VII. DESIGNATION OF VAST COMMUNICATIONS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>83</sup> Designation of Vast Communications as an ETC in the Non-Jurisdictional States will promote the public interest by providing low-income consumers in the Non-Jurisdictional States with more affordable and higher quality wireless services. Many low-income consumers have yet to reap the full benefits of the wireless marketplace. Whether because of financial constraints, poor credit or intermittent employment, these consumers often lack access to the benefits that wireless services bring to other consumers.<sup>84</sup> Designating Vast Communications as an ETC in the Non-Jurisdictional States will enable it to expand the availability of affordable telecommunications services to qualifying consumers, leading to lower prices and increased choice.<sup>85</sup>

The instant request for limited ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income

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<sup>81</sup> See *id* at ¶ 128.

<sup>82</sup> See *id* at ¶ 302.

<sup>83</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

<sup>84</sup> See *supra* note 22.

<sup>85</sup> See *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730, 20760 ¶ 52 (1996).

consumers—receive affordable and comparable telecommunications services. Given this context, designating Vast Communications as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the Non-Jurisdictional States—the intended beneficiaries of universal service. The Company’s participation in the Lifeline program also undoubtedly would increase opportunities for the company to serve these customers with appealing and affordable service offerings.

**A. Advantages of Vast Communications’ Service Offering**

The public interest benefits of the Company’s wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service and, where available, E911 service in accordance with current FCC requirements. Vast Communications’s Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. Vast Communications’s 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 Lifeline rates and without the burden of credit checks, contracts, or activation fees.

Most importantly, Vast Communications’ Lifeline service will provide low-income residents with the convenience and security offered by wireless services—even if their financial position deteriorates. ETC designation in the Non-Jurisdictional States would enable Vast Communications to offer appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis.

Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing Vast Communications with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

In sum, ETC designation in the Non-Jurisdictional States would enable Vast Communications to provide all of the public benefits cited by the Commission in its analysis in the *TracFone* and *Virgin Mobile Orders*. Namely, Vast Communications would provide “increased consumer choice, high-quality service offerings, and mobility,”<sup>86</sup> as well as the safety and security of effective 911 and E911 services.<sup>87</sup>

## **B. The Benefits of Competitive Choice**

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.<sup>88</sup> Designation of Vast Communications as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of Vast Communications as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.<sup>89</sup> Designation of Vast Communications as an ETC would offer Lifeline-eligible

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<sup>86</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15.

<sup>87</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3391 ¶ 23.

<sup>88</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

<sup>89</sup> See 47 U.S.C. § 254(b)(1).

consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

### **C. Impact on the Universal Service Fund**

Vast Communications will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order*, Vast Communications will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, the Company's designation as an ETC will not increase the number of persons eligible for Lifeline support. Vast Communications's ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. According to the FCC, "the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest," and "A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs."<sup>90</sup>

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<sup>90</sup> See *Petition of i-wireless, LLC for Forbearance from 47 U.S.C § 214(e)(1)(A)*, Order, FCC 10-117 (rel. June 25, 2010) at ¶ 19.

## VIII. ANTI-DRUG ABUSE CERTIFICATION

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

## IX. CONCLUSION

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

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

Respectfully submitted,

/s/ LANCE STEINHART

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*Attorneys for Vast Companies, LLC*

April 5, 2013

## Attachment A

### Proposed Lifeline Rates

Vast Communications' Lifeline offering proposes to give eligible customers the following Lifeline Plan choices, outlined in the table below. These plans are intended to meet customers' unique communication needs and grow with them as their needs change (including from Lifeline subsidized plans to retail plans when their circumstances change).

Rate Plans	Retail	Non-Tribal Lifeline	Tribal Lifeline
Unlimited Voice & Text	\$40.00	\$30.00	\$5.00
Unlimited Voice & Text with 100 MB Data	\$45.00	\$35.00	\$10.00
Unlimited Voice & Text with 500 MB Data	\$50.00	\$40.00	\$15.00

#### **Unlimited Voice & Text\***

Unlimited anytime minutes and texting per month

Net cost to Lifeline customer:

**\$30 for Non-Tribal Lifeline eligible customers;**

**\$5 for Tribal Lifeline eligible customers**

#### **Unlimited Voice & Text with 100MB of Data\***

Unlimited anytime minutes and texting and 100MB of data usage per month

Net cost to Lifeline customer:

**\$35 for Non-Tribal eligible Lifeline customers;**

**\$10 for Tribal Lifeline eligible customers**

#### **Unlimited Voice & Text with 500MB of Data\***

Unlimited anytime minutes and texting and 500 MB of data usage per month

Net cost to Lifeline customer:

**\$40 for Non-Tribal Lifeline eligible customers;**

**\$15 for Tribal Lifeline eligible customers**

#### **Any additional usage is priced at:**

- 5 cents per 1,000 Kilobytes (KB) of data

#### **\*All service package options include:**

- A free handset
- Free calls to 911 emergency services
- Free calls to Customer Service
- Free balance inquiries
- Free Voicemail, Caller ID and Call Waiting
- Free Directory Assistance (411) calling
- Free Domestic Long Distance

**Attachment B**

**Affirmative Statement of the Alabama Public Service Commission**

# Alabama Public Service Commission

## Orders

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

**Joint Petitioners**

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

**DOCKET U-4400**

### ORDER

#### **BY THE COMMISSION:**

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

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

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

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

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

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

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

DONE at Montgomery, Alabama, this 12<sup>th</sup> day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

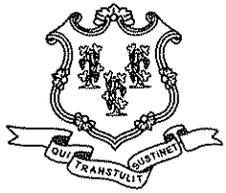
George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

**Attachment C**

**Affirmative Statement of the Connecticut Department of Public Utility Control**



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC UTILITY CONTROL

December 9, 2011  
In reply, please refer to:  
UR:PAP

Lance J.M. Steinhart, Esquire  
1720 Windward Concourse  
Suite 150  
Atlanta, Georgia 30005

Re: Request for Letter Clarifying Jurisdiction Over Wireless CETC Petitions

Dear Mr. Steinhart:

The Public Utilities Regulatory Authority (Authority), formerly known as the Department of Public Utility Control, acknowledges receipt of your October 18, 2011 letter filed on behalf of Q Link Wireless LLC (QLink) seeking clarification as to whether the Authority asserts jurisdiction to designate competitive eligible telecommunications carriers (CETC) in Connecticut. According to your letter, QLink seeks designation as a CETC in Connecticut and believes that the Authority does not assert jurisdiction to designate CETCs in the state and that carriers must apply to the Federal Communications Commission for certification.

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

Sincerely,

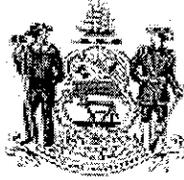
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION  
PUBLIC UTILITIES REGULATORY AUTHORITY



Kimberley J. Santopietro  
Executive Secretary

**Attachment D**

**Affirmative Statement of the Delaware Public Service Commission**



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

October 21, 2011

**VIA ELECTRONIC MAIL**

Lance J.M. Steinhart, P.C.  
1725 Windward Concourse, Suite 150  
Alpharetta, Georgia 30005

RE: Delaware's Status as a Default State for the Federal Lifeline/Link-Up Program

Dear Mr. Steinhart:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Will O'Brien".

William F. O'Brien  
Executive Director

**Attachment E**

**Affirmative Statement of the District of Columbia Public Service Commission**



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

February 29, 2012

**Via First Class & Electronic Mail**

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

Dear Mr. Steinhart:

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

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

Sincerely,

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

Richard A. Beverly  
General Counsel

Enclosure



D.C. Council Home

Home Search Help ©



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

### DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition Currentness

Division V. Local Business Affairs

Title 34. Public Utilities.

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

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

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

(c) This chapter shall not:

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

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

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

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

CREDIT(S)

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

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

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

Legislative History of Laws

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

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

References in Text

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

DC CODE § 34-2006

Current through January 11, 2012

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END OF DOCUMENT

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**Attachment F**

**Affirmative Statement of the Florida Public Service Commission**

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

STATE OF FLORIDA



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

## Public Service Commission

October 24, 2011

Ms. Kasey C. Chow  
Lance J.M. Steinhart, P.C.  
Attorney At Law  
1725 Windward Concourse  
Suite 150  
Alpharetta, GA 30005

**Re: Undocketed – Q Link Wireless LLC's ETC Designation**

Dear Ms. Chow:

We received your October 18, 2011 letter advising that Q Link Wireless LLC, a commercial mobile radio service provider, wish to seek designation as an ETC in Florida. You also requested an affirmative statement that the Florida Public Service Commission no longer assert jurisdiction to designate commercial mobile radio service providers as eligible telecommunication carriers in Florida.

This letter acknowledges that the revisions to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider Q Link Wireless LLC's bid for ETC status.

Sincerely,

  
S. Curtis Kiser  
General Counsel

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

**Attachment G**

**Affirmative Statement of the New Hampshire Public Utilities Commission**

THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Clifton C. Below  
Amy L. Ignatius

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland



**PUBLIC UTILITIES COMMISSION**  
21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

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

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

March 28, 2011

**RE: ETC Certification in New Hampshire**

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

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

Sincerely,

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

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

**Attachment H**

**Affirmative Statement of the New York Public Service Commission**

STATE OF NEW YORK DEPARTMENT OF PUBLIC  
SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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*

October 21, 2011

TO WHOM IT MAY CONCERN:

Re: Q Link Wireless LLC CMRS Jurisdiction

We have received a letter from Q Link Wireless LLC (QLink), a mobile virtual network operator (MVNO), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over MVNOs for the purpose of making determinations regarding Competitive Eligible Telecommunications Carrier (CETC) designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of 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 as of this date that regulation should be reinstated under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by QLink that it provides wireless service, it would not be subject to New York State Public Service Commission jurisdiction for the purpose of making a CETC designation.

Very truly yours,

*Maureen J. McCauley*

Maureen J. McCauley  
Assistant Counsel

**Attachment I**

**Affirmative Statement of the North Carolina Public Utilities Commission**

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

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

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

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

WHEREUPON, the Commission reaches the following

**CONCLUSIONS**

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

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

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

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

Patricia Swenson, Deputy Clerk

**Attachment J**

**Affirmative Statement of the Tennessee Regulatory Authority**

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

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

)  
)  
)  
)  
)

DOCKET NO.  
02-01245

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ORDER

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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.<sup>1</sup>

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.<sup>2</sup>

---

<sup>1</sup> 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).

<sup>2</sup> 47 U.S.C. §214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

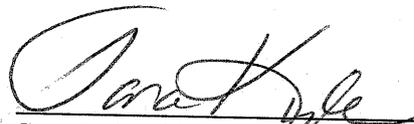
In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier 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.”<sup>3</sup> 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.”<sup>4</sup>

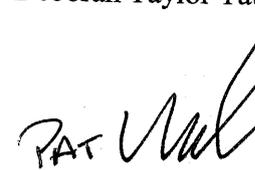
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

**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

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

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

**Attachment K**

**Affirmative Statement of the Texas Public Utility Commission**

**PROJECT NO. 40561**

**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 AM 11:37  
OF TEXAS**

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

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

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

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

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

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

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

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

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

- (2) **Rural service area.** In the case of areas served by a rural telephone company, as defined in §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan), a carrier must provide federally supported services pursuant to 47 C.F.R. §54.101 throughout the study area of the rural telephone company in order to be eligible to receive federal universal service support.
- 
- (d) **Criteria for determination of ETCs.** A common carrier shall be designated as eligible to receive federal universal service support if it:
    - (1) offers the services that are supported by the federal universal service support mechanisms under 47 C.F.R. §54.101 either using its own facilities or a combination of its own facilities and resale of another carrier's services; and
    - (2) advertises the availability of and charges for such services using media of general distribution.
- 
- (e) **Criteria for determination of receipt of federal universal service support.** In order to receive federal universal service support, a common carrier must:
    - (1) meet the requirements of subsection (d) of this section;
    - (2) offer Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E (relating to Universal Service Support for Low-Income Consumers); and

- (3) offer toll limitation services in accordance with 47 C.F.R. §54.400 (relating to Terms and Definitions) and §54.401 (relating to Lifeline Defined).

(f) **Designation of more than one ETC.**

- (1) Non-rural service areas. In areas not served by rural telephone companies, as defined in §26.404 of this title, the commission shall designate, upon application, more than one ETC in a service area so long as each additional carrier meets the requirements of subsection (c)(1) of this section and subsection (d) of this section.
- (2) Rural service areas. In areas served by rural telephone companies, as defined in §26.404 of this title, the commission may designate as an ETC a carrier that meets the requirements of subsection (c)(2) of this section and subsection (d) of this section if the commission finds that the designation is in the public interest.

(g) **Proceedings to designate ETCs.**

- (1) At any time, a common carrier may seek commission approval to be designated an ETC for a requested service area.
- (2) In order to receive support under this section for exchanges purchased from an unaffiliated carrier, the acquiring ETC shall file an application, within 30 days after the date of the purchase, to amend its ETC service area to include those geographic areas that are eligible for support.
- (3) If an ETC receiving support under this section sells an exchange to an unaffiliated carrier, it shall file an application, within 30 days after the date of the sale, to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

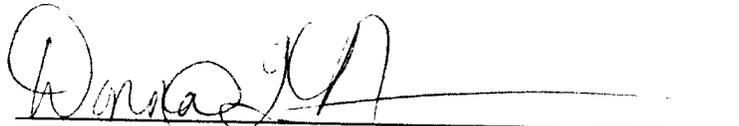
- (E) each support category complies with subparagraphs (A) and (B) of this paragraph;
  - (F) monthly payments of FUSF support shall be based upon the annual amount of FUSF support divided by 12 months if the rural ILEC's study area does not contain a competitive carrier designated as an ETC; and
 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

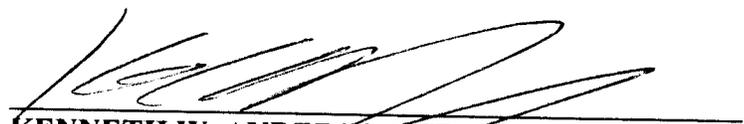
- support for each category of costs was derived so that competitive ETCs may compare the disaggregated costs for each cost zone proposed; and
- (E) maps identifying the boundaries of the disaggregated zones within the study area.
- (5) **Disaggregation upon commission order.** The commission on its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

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

SIGNED AT AUSTIN, TEXAS on the 16<sup>th</sup> day of November 2012.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
\_\_\_\_\_  
**DONNA L. NELSON, CHAIRMAN**

  
\_\_\_\_\_  
**KENNETH W. ANDERSON, JR., COMMISSIONER**

  
\_\_\_\_\_  
**ROLANDO PABLOS, COMMISSIONER**

**Attachment L**

**Affirmative Statement of the Virginia Corporation Commission**

## STATE CORPORATION COMMISSION DOCUMENT CONTROL

AT RICHMOND, APRIL 9, 2004

IN RE:

2004 APR -9 A 11:46

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC-2001-00263

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

ORDER INVITING COMMENTS AND/OR REQUESTS FOR HEARING

On December 21, 2001, Virginia Cellular LLC ("Virginia Cellular") filed an application with the State Corporation Commission ("Commission") for designation as an eligible telecommunications carrier ("ETC"). This was the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>1</sup> 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

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

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

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.<sup>3</sup>

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.<sup>4</sup> 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."<sup>5</sup>

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<sup>2</sup> 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*.

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

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

<sup>5</sup> 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.<sup>6</sup> 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.

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

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

(4) This matter is continued generally.

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

**Attachment M**

**Coverage Area**

**Due to the magnitude of this document, Vast Companies, LLC dba Vast Communications'  
Attachment M Coverage Area is being filed as a separate document  
on the FCC's ECFS System**

**Attachment N**

**Vast Companies, LLC's Compliance Plan**

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Facsimile: (770) 232-9208

January 29, 2013

**VIA ECFS**

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

Re: Vast Companies, LLC dba Vast Communications  
Revised Compliance Plan  
WC Docket No. 09-197 & WC Docket No. 11-42

Dear Ms. Dortch:

Pursuant to the Federal Communications Commission Order *In the Matter of Lifeline and Link Up Reform and Modernization* released February 6, 2012, attached please find Vast Companies, LLC dba Vast Communications' ("Vast") Revised Compliance Plan, which replaces in its entirety the Company's original Compliance Plan filed December 5, 2012.

**Please be advised that Exhibits D and E are CONFIDENTIAL and PROPRIETARY.**

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

Respectfully submitted,

*/s/ Kasey Chow*

Kasey Chow  
Associate at Lance J.M. Steinhart, P.C.  
Attorneys for Vast Companies, LLC

Attachment  
cc: Wilma Rickey

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

In the Matter of the )  
 )  
Telecommunications Carriers Eligible for ) WC Docket No. 09-197  
Universal Service Support )  
 ) WC Docket No. 11-42  
Lifeline and Link Up Reform and Modernization )  
 )  
Vast Companies, LLC dba Vast Communications )  
Compliance Plan )

**VAST COMPANIES, LLC'S REVISED COMPLIANCE PLAN**

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*Attorneys for Vast Companies, LLC*

January 29, 2013

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**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. BACKGROUND ..... 2

III. VAST COMMUNICATIONS WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE ORDER..... 2

    A. Access to 911 and E911 Services..... 3

    B. E911-Compliant Handsets ..... 3

    C. Consumer Eligibility and Enrollment ..... 3

        1. One-Per-Household..... 4

        2. Initial and Annual Certification ..... 6

        3. Annual Re-Certification..... 14

    D. Other Reforms to Eliminate Waste, Fraud and Abuse..... 15

        1. National Lifeline Accountability Database..... 17

        2. Subscriber Usage ..... 17

        3. Marketing & Outreach ..... 19

        4. Audits..... 20

    E. De-Enrollment..... 20

    F. Additional Rule Amendments..... 22

        1. Terms and Conditions of Service..... 22

        2. Reporting Requirements ..... 22

        3. Reimbursement from USAC..... 22

        4. Section 54.202 Certifications..... 23

IV. COMPANY INFORMATION..... 23

    A. Operations ..... 24

    B. Financial and Technical Capability ..... 24

    C. Customer Service ..... 25

    D. Lifeline Offering..... 26

V. CONCLUSION..... 28

**TABLE OF EXHIBITS**

	<u>Exhibit</u>
Sample Lifeline Certification Form .....	A
Sample Advertisements .....	B
Lifeline Terms and Conditions .....	C
Outreach Plan .....	D
Company Affiliates .....	E
Key Management Profiles.....	F
Proposed Service Offering.....	G

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

In the Matter of the	)	
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization	)	
	)	
Vast Companies, LLC dba Vast Communications	)	
Compliance Plan	)	

**VAST COMPANIES, LLC’S REVISED COMPLIANCE PLAN**

**I. INTRODUCTION**

Vast Companies, LLC dba Vast Communications (“Vast Communications” or the “Company”) is a prepaid wireless telecommunications carrier seeking designation as an Eligible Telecommunications Carrier (“ETC”) solely for the purpose of participating in the Lifeline program. Although Section 214(e)(1)(A) of the Act requires an ETC to offer USF-supported services to some extent over its own facilities, the Federal Communications Commission (“FCC” or “Commission”) has forbore from that requirement for carriers that are, or seek to become, Lifeline-only ETCs.<sup>1</sup> Vast Communications will avail itself of the FCC’s conditional grant of forbearance and, by its attorney, hereby files its Revised Compliance Plan outlining the measures it will take to implement the conditions of forbearance outlined in the *Order*.<sup>2</sup> This Revised Compliance Plan

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

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

replaces in its entirety the Company's original Compliance Plan filed December 5, 2012. Given the severe economic environment that is forcing many low-income customers to forego wireless service, Vast Communications respectfully requests expeditious approval of this plan so that the Company, upon designation as an ETC, may quickly deploy much-needed Lifeline services to qualified low-income customers.

## **II. BACKGROUND**

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

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

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

## **III. VAST COMMUNICATIONS WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE ORDER**

Vast Communications will comply with all conditions set forth in the *Order*, the provision of this Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported

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<sup>3</sup> See *Order* at ¶¶ 368, 373 and 379.

prepaid wireless service to customers throughout the United States.<sup>4</sup>

**A. Access to 911 and E911 Services**

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

**B. E911-Compliant Handsets**

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

**C. Consumer Eligibility and Enrollment**

Vast Communications will certify and verify consumer eligibility for Lifeline in accordance with the requirements set forth in the *Order*. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer eligibility, Vast Communications will rely on the state identification or database.<sup>7</sup> In

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

<sup>5</sup> See *Order* at ¶ 373.

<sup>6</sup> See *id.*

<sup>7</sup> See *Order* at ¶ 98.

instances where Vast Communications is responsible for the initial determination and annual recertification of consumer eligibility, the Company will follow the procedures set forth below.

### **1. One-Per-Household**

Vast Communications understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as “any individual or group of individuals who are living together at the same address as one economic unit.”<sup>8</sup> Upon receiving an application for Lifeline support, Vast Communications will check the National Lifeline Accountability Database (“NLAD”), once in place, to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. Vast Communications will also search its own internal database of active customers, real-time, pre-sale, to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If Vast Communications determines that an individual at the applicant’s address is currently receiving Lifeline-supported service, Vast Communications will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, Vast Communications will require applicants to complete and submit to the Company USAC’s one-per-household template, which will contain the following: (1) an explanation of the Commission’s one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant’s household and share in the household’s expenses or benefit from the applicant’s income; and (4) the penalty for a consumer’s failure to make the required one-per-household certification (i.e., de-enrollment).<sup>9</sup>

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<sup>8</sup> See Order at ¶ 74.

<sup>9</sup> See Order at ¶ 78.

Vast Communications will deny the Lifeline application of any individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

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

As the following details, Vast Communications' certification form will clearly explain the one-per-household requirement and all consumers must certify that they receive Lifeline support for a single subscription per household.

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

<sup>11</sup> See Order at ¶ 85.

<sup>12</sup> See Order at ¶ 89.

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

<sup>14</sup> See Order at ¶ 85.

<sup>15</sup> See *id.*

## 2. Initial and Annual Certification

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

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

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

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

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

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

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

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

documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures, including Interactive Voice Response (IVR) recordings, that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.<sup>16</sup>

Enrollment in person. The Company will primarily enroll Lifeline applicants in person in community-based structures in partnership with community organizations. When a prospective customer applies for Lifeline service, Company employees, agents or representatives (“personnel”) will ask to see a government issued ID and will validate the address via a USPS/Melissa Database. The Company will check the National Lifeline Accountability Database, once it is available. Until that time, the Company will input the name/address combination into CGM, LLC’s aggregate duplicate database (see section III.D below) to confirm that the applicant is not already receiving a Lifeline subsidy from Vast Communications or any other CGM client that has agreed to share their data. If the customer indicates on the application form that their address is a multi-household residence, personnel will require the applicant to complete USAC’s one-per-household worksheet as well. In cases where an eligibility database exists, personnel will query the database to determine eligibility. In states where eligibility databases are not available, the applicant is required to provide proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. Vast Communications’ Lifeline application contains an “Office Use Only” section, which must be completely filled out and signed by Company personnel in order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps) and a unique identifier (last 3 digits of document ID). Eligibility documents are returned to the

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<sup>16</sup> See Order at ¶ 168.

customer after review. Finally, Vast Communications personnel will verbally review all certifications and disclosures with the applicant before they sign the application form, making sure the applicant verbally acknowledges each required certification before moving on to the next. Upon successful completion of the certification process, the customer is allowed to receive their free phone in person. In instances where eligibility databases cannot be accessed in real-time, Vast Communications will mail the phone to eligible customers once verification of eligibility is complete. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company's system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer's selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer's allotted minutes.

Enrollment by phone. With respect to those enrolling via the phone, Company personnel are able to verbally explain the Lifeline program and its eligibility requirements, including required information and disclosures. The Company call center representative will either instruct the potential customer to download an application or mail the application to the potential customer. When the signed application is received, it will be reviewed for required information. If the applicant indicates on the application form that their address is a multi-household residence, personnel will require the applicant to complete USAC's one-per-household worksheet as well. If no eligibility database is available, personnel will advise the applicant that they are required to provide proof of identity verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to

the Company as well as what documentation satisfies the proof requirement. The Company will qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). If no eligibility database is available, the application will be placed in a “hold” status until the Company receives copies of the applicant’s proof documentation, at which point Company personnel will review the documentation and complete the “Office Use Only” section of the application form, which must be completely filled out and signed by personnel in order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e., Food Stamp/SNAP benefit award letter) and a unique identifier (last 3 digits of document ID). Vast Communications will destroy copies of proof documentation and deliver phones to eligible customers by mail. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company’s system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer’s selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer’s allotted minutes.

Enrollment online. Vast Communications will not be immediately enrolling customers online. However, the Company may launch this capability at some point in the future. If and when the Company begins enrolling via the Internet, prospective customers will be able to fill out an application form online and sign electronically. Vast Communications will highlight the certifications that are required, for example, by requiring consumers to acknowledge each certification before moving on to the next field. If the customer indicates that their address is a

multi-household residence, online interface will require the applicant to complete USAC's one per-household worksheet as well. The Company will qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). If no eligibility database is available, the online interface will advise the applicant that they are required to provide proof of identity verification of benefits before their Lifeline service can be activated; applicants will be made aware of how to submit the required documentation to the Company as well as what documentation qualifies as proof of benefits. If no eligibility database is available, the application will be placed in a "hold" status until the Company receives copies of the applicant's proof documentation and government-issued ID, at which point Company personnel will review the documentation and complete the "Office Use Only" section of the application form, which must be completely filled out and signed by personnel in order to record a description about the specific documentation reviewed as part of the eligibility verification process, including type of documentation (i.e. Food Stamps/SNAP benefit award letter) and a unique identifier (last 3 digits of document ID). Vast Communications will destroy copies of proof documentation and deliver phones to eligible customers by mail. Signature confirmation for delivery is required. Phones mailed to customers will be in a suspended status. In order to activate the phone, customers will be required to call into an automated system and provide their personal identification number. Upon validation by the Company's system, the phone and customer account will be converted to an active status. At this point, the phone will be ready to make phone calls according to the customer's selected rate plan, subject to the terms of service. The system activation call, as well as all calls to and from customer service, is not charged against the customer's allotted minutes.

Vast Communications will determine eligibility utilizing the income and program criteria

currently utilized by federal default states (47 C.F.R. § 54.409(a),(b)), as well as any additional state-specific criteria. Prior to enrolling a new subscriber, Vast Communications will check the eligibility of low-income consumers first by accessing state or federal social services electronic eligibility databases, where available.<sup>17</sup> If a database is used to establish eligibility, Vast Communications will not require documentation of the consumer's participation in a qualifying federal program; instead, Vast Communications or its representative will note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.<sup>18</sup> However, in states where there is no state administrator, the state commission or other state agency is not making eligibility determinations, and there is no automated means for Vast Communications to check electronic databases for eligibility, Vast Communications will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.<sup>19</sup> Vast Communications will require acceptable documentation both for income eligibility and for program eligibility. The Company will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility.<sup>20</sup> Vast Communications understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases Vast Communications remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.<sup>21</sup>

Personnel Training and Quality Control. Company personnel will use an electronic, system-based application designed to validate and capture enrollment information, walking

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<sup>17</sup> See Order at ¶ 97.

<sup>18</sup> See Order at ¶ 98.

<sup>19</sup> See Order at ¶ 99.

<sup>20</sup> See Order at ¶ 101.

<sup>21</sup> See Order at ¶ 110.

through the requirements step-by-step. Vast Communications will provide Lifeline-specific training to all employees, agents, and representatives. Such training will be designed to give personnel an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a customer's eligibility to participate in the Lifeline program under the Commission's rules. The Company will employ agents to sign customers up in some locations. Among other things, the Lifeline program training will discuss the Company's Lifeline application form (see Exhibit A) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate the ability of employees, agents, or representatives to explain each item contained therein and answer any customer questions. Training will be in-person or via an attendance registered, live online workshop conducted by Vast Communications' employees who have already completed such training. No Company employee, agent, or representative may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Before any Company personnel are permitted to step into customer-facing roles, they must pass a test to ensure they fully grasp the program's rules and requirements. Agents will be very tightly screened, thoroughly trained and closely monitored. Because Vast Communications is responsible for the actions of all of its personnel, including those enrolling customers in any Company-owned, community-based, or third-party location, and a Company employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company always "deals directly" with its customers to certify and verify all customers' Lifeline eligibility. Agent performance, based on a secondary approval rate, will be tracked and monitored. Agents with a secondary approval rate below 98% will receive re-training. Habitual

offenders will be removed from Vast Communications' Approved Agent list.

### **3. Annual Re-Certification**

Vast Communications understands that it must re-certify the eligibility of its entire Lifeline subscriber base annually and report the results to USAC by January 31 of each year, and the Company may elect to perform this re-certification on a rolling basis throughout the year.<sup>22</sup> Vast Communications will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.<sup>23</sup> The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact the Company. Vast Communications will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended, as detailed in section C.2 above. The Company will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Vast Communications understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more of such options for its certifications.<sup>24</sup>

Alternatively, where a database containing consumer eligibility data is available, Vast Communications (or state agency or third-party, where applicable) will instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the state data, Vast Communications will contact the subscriber every year during the annual

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<sup>22</sup> See Order at ¶ 130.

<sup>23</sup> See *id.*

<sup>24</sup> See Order at ¶ 132.

certification process to obtain a valid address.<sup>25</sup> After 2012, Vast Communications will continue to annually certify the continued eligibility of its entire subscriber base, either by accessing a qualifying database, or by electing to have USAC administer the self-certification process on the Company's behalf.<sup>26</sup>

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

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

(2) that the Company is in compliance with all federal Lifeline certification procedures.<sup>27</sup>

#### **D. Other Reforms to Eliminate Waste, Fraud and Abuse**

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

Vast Communications has implemented enrollment procedures designed to prevent

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<sup>25</sup> See Order at ¶ 131.

<sup>26</sup> See Order at ¶ 133.

<sup>27</sup> See Order at ¶ 126-27.

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

As detailed in section III.C.2, Vast Communications first validates each applicant's identity via a government issued ID card, passport, etc. Additionally, as mentioned above, Vast Communications requires the applicant to provide their date of birth (DOB) and last four digits of their social security number (SSN). Requiring DOB and SSN ensures that neither the applicant nor the Company representative can forge certification forms based on false names and addresses. Once the applicant's identity is confirmed, Vast Communications verifies that the applicant is eligible to receive the Lifeline subsidy. To do this, Vast Communications checks any available eligibility database. If one is not available, the applicant is required to provide proof of eligibility. This prevents ineligible applicants from receiving the subsidy.

Vast Communications validates the applicant's address via a USPS/Melissa Database to ensure the address is correct. The Company will check the NLAD, once it is available; until that time, the Company will dip the name/address combination into CGM's aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from Vast Communications or any other CGM client that has agreed to share their data. This is done through an API connection

between the Company's provisioning platform and CGM. This prompts the representative to detail the one-per-household rule with the applicant.

### **1. National Lifeline Accountability Database**

Vast Communications will participate in the National Lifeline Accountability Database, once it is established. As required by the *Order*, Vast Communications will provide to the NLAD subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date (when applicable), and amount of federal Lifeline support being sought for that subscriber.<sup>28</sup> Vast Communications will provide the information listed above for existing subscribers within 60 days of Commission notice that the NLAD is capable of accepting subscriber information.<sup>29</sup>

Furthermore, on its certification form, Vast Communications will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to USAC (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.<sup>30</sup>

Within 30 days following Commission notice that the NLAD is capable of accepting queries, Vast Communications will query the NLAD to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Fund.<sup>31</sup>

### **2. Subscriber Usage**

Vast Communications will not seek reimbursement from the USF for new subscribers

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<sup>28</sup> See *Order* at ¶ 189.

<sup>29</sup> See *Order* at ¶ 190.

<sup>30</sup> See *Order*, Appendix C.

<sup>31</sup> See *Order* at ¶ 203.

until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, Vast Communications will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.<sup>32</sup> Vast Communications will notify its subscribers at service initiation, via the certification form and via script that is reviewed with every customer, about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.<sup>33</sup> An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.<sup>34</sup> Vast Communications utilizes tracking software to notify the customer if the customer has not used their service for more than 30 or 60 consecutive days. Furthermore, a third party contractor validates the Company's subsidy data to prevent a subsidy request for customers that are inactive under the Company's non-usage policy.<sup>35</sup> After notification, if the customer fails to use the phone, it is automatically de-enrolled pursuant to the procedures outlined in section E below. Vast Communications will continue to comply with applicable public safety, including transmitting 911 calls to the appropriate PSAP even if the Company is no longer providing Lifeline service to a consumer.<sup>36</sup>

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<sup>32</sup> See Order at ¶ 257.

<sup>33</sup> See *id.*

<sup>34</sup> See Order at ¶ 261.

<sup>35</sup> CGM, LLC is currently the Company's third party contractor.

<sup>36</sup> See Order at ¶ 262. 911 transmissions will actually be performed by the Company's underlying facilities-based CMRS provider.

### 3. Marketing & Outreach

Vast Communications will implement the measures outlined herein to help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the limitations of the program, so as to prevent duplicative or otherwise ineligible service as well as other forms of waste, fraud, and abuse. Vast Communications will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service:<sup>37</sup> (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. Vast Communications' website and printed collateral will explain the documentation necessary for enrollment, and the details of Vast Communications' plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.<sup>38</sup> For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, Vast Communications will include the URL link for its website where disclosures will be listed. Additionally, Vast Communications will disclose the company name under which it does business.<sup>39</sup>

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

<sup>38</sup> *See Order* at ¶ 275.

<sup>39</sup> *See id.*

#### 4. Audits

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

##### E. De-Enrollment

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

Ineligibility. Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).<sup>42</sup>

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<sup>40</sup> See *Order* at ¶ 291.

<sup>41</sup> See *Order* at ¶ 294. As of the date of filing of this Compliance Plan, the audit requirement has not been approved pursuant to the Paperwork Reduction Act.

<sup>42</sup> See *Order* at ¶ 122.

If a customer does not respond to the Company's annual verification survey within 30 days, or if Vast Communications has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs the Company or the state that he or she is ineligible for Lifeline), Vast Communications will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.<sup>43</sup> Similarly, Vast Communications will de-enroll a subscriber if they fail to respond to the Company's attempt to verify a temporary address within 30 days.<sup>44</sup>

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

Non-Usage. Vast Communications will de-enroll any subscriber that has not used the Company's Lifeline service for 60 consecutive days, as discussed in section IV.B above. Vast Communications will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be initiated after 30-days of non-usage. Vast Communications will update the national database, once in place, within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment

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

<sup>44</sup> See *Order* at ¶ 89.

<sup>45</sup> See *Order* at ¶ 214-16.

report annually to USAC.<sup>46</sup>

## **F. Additional Rule Amendments**

### **1. Terms and Conditions of Service**

Vast Communications has attached as Exhibit C its Lifeline terms and conditions of service. The Company's Lifeline offering is summarized in section IV.C below. These terms and conditions are subject to change as needed, and the most current version may be found at [www.vastphone.com](http://www.vastphone.com). The terms and conditions of the Company's retail plans, as available to the public can also be found at [www.vastphone.com](http://www.vastphone.com).

### **2. Reporting Requirements**

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

### **3. Reimbursement from USAC**

In seeking reimbursement for Lifeline, Vast Communications will comply with the requirements of C.F.R § 54.407, as revised by the *Order*.<sup>48</sup> Vast Communications will certify when seeking reimbursement that the Company has obtained a valid certification form for each

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<sup>46</sup> See *Order* at ¶ 257.

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

<sup>48</sup> See *Order* page 221.

consumer for whom the Company seeks Lifeline reimbursement,<sup>49</sup> and the Company will seek reimbursement for actual lines served, not projected lines.<sup>50</sup>

#### **4. Section 54.202 Certifications**

Vast Communications certifies the following in accordance with newly amended C.F.R. § 54.202: (1) Vast Communications will comply with the service requirements applicable to the support that it receives; (2) Vast Communications is able to remain functional in emergency situations; (3) Vast Communications will satisfy applicable consumer protection and service quality standards.

#### **IV. COMPANY INFORMATION**

Vast Communications is an Oklahoma limited liability company. Vast Communications will provide prepaid wireless telecommunications services to consumers as a Mobile Virtual Network Operator (“MVNO”). Vast Communications will utilize Ready Wireless, LLC (“Ready”) as its Mobile Virtual Network Enabler (“MVNE”). In addition to providing critical MVNE services, Ready will be Vast Communication’s intermediary with Verizon Wireless (“Verizon”) for network services. Vast Communications will purchase access to the extensive, nationwide network of Verizon, including voice, text and data, directly from Ready. In this way, the Company can provide value to customers including reliable service on a fully vetted, robust network, freedom from roaming or long-distance charges and nationwide coverage. Vast Communications will leverage the advanced systems of Ready, and the already built out Verizon network, so that the Company can focus on its customers and program compliance.

At this time Vast Communications intends to seek ETC designation in the following states: Alaska, Arizona, Colorado, Hawaii, Kentucky, Montana, Nebraska, Nevada, New Mexico, North

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<sup>49</sup> See Order at ¶ 128.

<sup>50</sup> See Order at ¶ 302.

Dakota, Oklahoma, Oregon, South Dakota, and Washington, as well as the Federal default jurisdictions (Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia).<sup>51</sup> Vast Communications intends to target areas within these states that are deeply underserved, in communities where the Company believes it is uniquely positioned to provide wireless services, both retail and Lifeline.<sup>52</sup>

#### **A. Operations**

The Company's legal name is Vast Companies, LLC dba Vast Communications. Vast Companies, LLC was organized in the State of Oklahoma on October 25, 2012. The dba Vast Communications was registered in the State of Oklahoma on October 26, 2012. The Company does not have any holding companies or operating companies. The Company's affiliates are listed in Exhibit E.<sup>53</sup> The Company identifies itself as Vast Communications on its marketing and advertising materials.

#### **B. Financial and Technical Capability**

Vast Communications is financially and technically capable of providing Lifeline-supported services.<sup>54</sup> Vast Communications will provide service to both Lifeline and non-Lifeline customers. The Company plans to launch its retail and Lifeline services simultaneously. Vast Communications is financially able to provide Lifeline-supported services and will not rely exclusively on USF disbursements to operate. In the event that USAC ceases disbursements for a period of time, the Company will still be able to provide service to its customers. The Company has secured sufficient initial investment funds that it will rely on for start-up operations in the first year. The Company has access to additional investment funds if needed. Because of the way the Company's rate plans

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<sup>51</sup> The Company reserves the right to modify its state ETC designation plan at any time.

<sup>52</sup> See Exhibit D for the Company's Outreach Plan. This information is CONFIDENTIAL AND PROPRIETARY and is being filed under seal as such.

<sup>53</sup> See Exhibit E for a list of the Company's affiliates. This information is CONFIDENTIAL AND PROPRIETARY and is being filed under seal as such.

<sup>54</sup> See *Order* at ¶ 387.

are structured, the Company will obtain revenue from Lifeline and retail customers alike. The Company anticipates retail revenue from non-Lifeline customers as well as customer phone upgrades, data top-ups, and sales from accessories in future storefront locations. Vast Communications has not been subject to enforcement action or ETC revocation proceedings in any state. Furthermore, the senior management of Vast Communications has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.<sup>55</sup> Vast Communications will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its MVNE, Ready Wireless, and its underlying carrier, Verizon.

### **C. Customer Service**

Vast Communications is dedicated to quality customer service and care. Lifeline customers can reach Customer Service via phone, e-mail, mail, or online at the Company's website [www.vastphone.com](http://www.vastphone.com), at the customer's convenience. When contacting the Company via phone, customers will be able to dial the Company's toll-free 800 number, or 611 from their Vast Communications phone, to reach customer service. After a brief automated system message, in both English and Spanish, customers will be offered the option of speaking with a customer service representative. A customer service representative will be available 24 hours a day, 7 days a week, and 365 days a year. The Company is using ILD Corp., Inc. ("ILD"), a high quality, leading operator of customer care services, for its customer care and back office support. Through ILD, customers will have immediate access to a live customer service representative in one of three languages. Through its partnership with ILD, the Company's customers will also have access, through an interpretation service, to over 180 other languages. The Company/ILD's goal is to answer 90% of all calls within two minutes or less. ILD's historical average speed of

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<sup>55</sup> See Exhibit F for key management profiles.

answer (“ASA”) for this type of call is 1 minute and 17 seconds. Customer Service staff will handle all service requests, including elective de-enrollments as outlined in Section III.E above.

#### **D. Lifeline Offering**

Vast Communications will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carrier.<sup>56</sup> As summarized in Exhibit G attached hereto, the Company’s Lifeline offering will provide eligible customers a discount on the Company’s various retail plan choices.<sup>57</sup> These plans are intended to meet customers’ unique communication needs and grow with them as their needs change, including from Lifeline subsidized plans to retail plans when their circumstances change.

1. Unlimited Voice & Text. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages.
2. Unlimited Voice & Text with 100MB Data. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages as well as 100MB of Data.
3. Unlimited Voice & Text with 500MB Data. Under this plan, eligible customers enjoy unlimited anytime minutes and unlimited text messages as well as 500MB of Data.

Customers have the capability of purchasing additional data for as low as 5 cents per 1,000 KB of data. Additional data will be made available for purchase at retail outlets frequented by low-income customers throughout the Company’s Service Area, as well as via Customer Service over the phone or online. The following Custom Calling features are provided to all customers at no additional cost: Voicemail, Caller ID, and Call Waiting.

The Company’s Lifeline plans will also include a free handset or an upgrade option.

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<sup>56</sup> The Company reserves the right to alter the proposed Lifeline rate plans on a state-by-state basis, particularly as required by state public utility commissions (PUC). The Company commits to pass through the entire Lifeline subsidy amount directly to the consumer.

<sup>57</sup> The discount applied to a Lifeline customer’s account is equal to any applicable federal subsidies plus any additional Company discount offered at the time. As of the date of filing this Revised Compliance Plan, the federal subsidy is \$9.25, with an additional \$25 available for Tribal Lifeline.

Lifeline customers can choose to receive a free Vast Communications phone. These phones will be voice, text, and data capable, typically flip or simple “candy bar” style phones. These phones will be quality, refurbished phones that have been fully tested for reliability. These phones, however, will not be recommended for the Company’s Unlimited Voice & Text with 500MB Data Plan due to limited data speeds and limited data functionality. Lifeline customers can also choose the upgrade option; Vast Communications will provide Lifeline customers with a credit towards the retail purchase of a higher-end Vast Communications phone. These phones will give Lifeline customers faster data speeds and greater data and application capability options. The Lifeline customer is responsible for paying the remaining price of the phone after the credit is applied. Under both options, customers will receive a replacement phone if the phone malfunctions due to a defect. Customers who misuse or lose their device or inadvertently break their device will be given the option of buying a replacement phone. Customers may also receive a replacement phone after 12 months of Vast Communications’ service, irrespective of their phones’ condition.

Vast Communications does not impose burdensome credit checks or long-term service contracts on its customers. Customers are not bound by a local calling area requirement; all Vast Communications plans come with domestic long distance at no extra per minute charge and exceptional nationwide digital coverage. Calls to 911 emergency services are always free, regardless of service activation or availability of minutes. Calls to the Company’s Customer Service and directory assistance (411) are also free. Vast Communications has attached as Exhibit C its Lifeline terms and conditions of service. The most current terms and conditions of the Company’s plans can always be found on the Company’s website at [www.vastphone.com](http://www.vastphone.com).

V. **CONCLUSION**

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

Respectfully submitted,

**Vast Companies, LLC dba Vast Communications**

/s/ KASEY CHOW

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*Its Counsel*

Dated January 29, 2013

**Exhibit A**

**Sample Lifeline Certification Form**



# Vast Communications

## LIFELINE APPLICATION

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

**Things to know about the Lifeline Program:**

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

**Applicant Information:**

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

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

Residence Address (No P.O. Boxes, Must be your principal address): This address is  Permanent  Temporary  Multi-Household

\_\_\_\_\_ APT/ Floor/ Other \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Billing Address (May Contain and P.O. Box)

\_\_\_\_\_ APT/ Floor/ Other \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

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

Initial Here

**Non-Tribal Programs**

- Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance
- Low- Income Home Energy Assistance Program (LIHEAP)
- National School Lunch Program
- Temporary Assistance for Needy Families (TANF)
- Medicaid

**Tribal Programs**

- Bureau of Indian Affairs General Assistance (BIA)
- Tribally Administered TANF (TATNF)
- Head Start (Tribal households meeting income qualifying standards)
- Food Distribution Program (program on Indian reservations)

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

Initial Here

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

- (1) The information contained in my application remains true and correct to the best of my knowledge and I acknowledge that willfully providing false or fraudulent information to receive Lifeline benefits is punishable by law and may result in me being barred from the program.
- (2) I am a current recipient of the program checked above, or have an annual household income at or below 135 percent of the Federal Poverty Guidelines.
- (3) I have provided documentation of eligibility if required to do so.
- (4) I understand that I and my household can only have one Lifeline-supported telephone service. Vast Communications has explained the one-per household requirement. I understand that violation of the one-per-household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the lifeline program, and could result in criminal prosecution by the United States Government.
- (5) I attest to the best of my knowledge, that I and no one in my household is receiving a Lifeline supported service from any other land line or wireless company such as Safelink, Assurance, or Reachout Wireless.
- (6) I understand my Vast Communications Lifeline service is a non-transferable. I may not transfer my service to any individual, including another eligible low-income consumer.
- (7) I understand that if my service goes unused for sixty (60) days, my service will be suspended, subject to a thirty (30) day period which I may use the service or contact Vast Communications to confirm that I want to continue receiving their service.
- (8) I will notify Vast Communications within thirty (30) days if I no longer qualify for Lifeline. I understand this requirement and may be subject to penalties if I fail to notify my phone company. Specifically, I will notify my company if:
  - (1) I cease to participate in the above federal or state program, or my annual household income exceeds 135% FPG.
  - (2) I am receiving more than one Lifeline supported service;
  - (3) I no longer satisfy the criteria for receiving Lifeline support.
- (9) I will notify Vast Communications within thirty (30) days of moving. Additionally, if my address listed above is a temporary address, I understand that I must verify my address with Vast Communications every ninety (90) days. If I fail to respond to Vast Communications' address verification attempts within thirty (30) days, my Lifeline service may be terminated.



# Vast Communications

- (10) Vast Communications has explained to me that I am required each year to re-certify my continued eligibility for Lifeline. If I fail to do so within thirty (30) days, it will result in the termination of my Vast Communications Lifeline service.
- (11) I authorize and understand that the Vast Communications may provide to state and Federal agencies, as required by law, for the purposes of complying with the Lifeline program all the information related to my account including but not limited to my name, date of birth, social security, usage history, address and phone number.
- (12) I understand that my name, telephone number, address, date of birth, last four digits of my Social Security Number or my Tribal ID Number, the date my Lifeline service was initiated, the date my Lifeline service was terminated, if applicable, amount of Lifeline support requested on my behalf and the means through which I qualified for Lifeline will be divulged to the Universal Service Administrative Company (USAC)(the administrator of the program) and/or its agents for the purpose of verifying that I do not receive more than one Lifeline subsidy.
- (13) I understand that if USAC identifies I am receiving more than one Lifeline subsidy, all carriers involved may be notified so that I may select one service and be de-enrolled from the other. I further understand that some states may impose more stringent rules including but not limited to barring me from re-enrolling in the program.
- (14) I authorize the company to access any records required to verify my statements on this form and to confirm my eligibility for the Lifeline program.
- (15) I certify that I reside on Federally Recognized Tribal lands (if applicable)

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE

**Agent Use Only:**

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

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

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

**Documents Acceptable Proof for Program-Eligibility**

(choose 1 from each list A and B below)

**List A - Choose 1**

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

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

- Low Income Home Energy Assistance Program (LIHEAP)
- National School Lunch Program's free lunch program
- Oklahoma Sales Tax Relief
- Bureau of Indian Affairs General Assistance (BIA)
- Tribally Administered TANF (TATNF)
- Head Start (meeting income qualifying standards)
- Vocational Rehabilitation (including aid to hearing impaired)

**List B - Choose 1**

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

\_\_\_\_\_  
Representative Number

\_\_\_\_\_  
Representative Signature

**2. Rate Plan Selection (select only one plan – customer is responsible for adding value to account for plans with a charge):**

**Non-Tribal Lifeline:**

- Unlimited Voice and Text (**\$30.00**)
- Unlimited Voice and Text with 100 MB of data (**\$35.00**)
- Unlimited Voice and Text with 500 MB of data (**\$40.00**)

**Tribal Lifeline Eligible:**

- Unlimited Voice and Text (**\$5.00**)
- Unlimited Voice and Text with 100 MB of data (**\$10.00**)
- Unlimited Voice and Text with 500 MB of data (**\$15.00**)

**Exhibit B**

**Sample Advertisements**

## Lifeline Eligibility

Eligibility criteria varies by state. For the State of Nevada, you are eligible for Lifeline if you participate in one of the following programs:

Federal Public Housing/ Section 8	School Clothing Allowance
Low Income Home Energy Assistance Program	SNAP (formerly known as Federal Food Stamp Program)
Medicaid (not Medicare)	Supplemental Security Income
National School Lunch Program (free program only)	Temporary Assistance for Needy Families Program
Bureau of Indian Affairs General Assistance (BIA)	Tribally Administered TANF (TATNF)
Head Start (Tribal households meeting income qualifying standards)	Food Distribution Program (program on Indian reservations)

You also may qualify for Lifeline in the State of Nevada, if your income is less than 135% of the Federal Poverty Guidelines.

Number in Household	Household Annual Income
1	\$15,080
2	\$20,426
3	\$25,772
4	\$31,118

If your household size is greater than 4, the maximum annual income is increased by \$5,346 for each additional household member.



## Lifeline Plans

For more information, or to sign up, visit our website at [www.vastphone.com](http://www.vastphone.com) or call us at 1-800-501-7133.

If you qualify for the Lifeline program in the State of Nevada, you may choose from any of the Lifeline Plans below. All of Vast Communications' Lifeline Plans have the following features:

- Free customer service calls
- Free Voicemail, Caller ID and Call Waiting
- Free 911 and balance inquiry calls

Rate Plans	Retail	Non-Tribal Lifeline	Tribal Lifeline
Unlimited Voice & Text	\$40.00	\$30.00	\$5.00
Unlimited Voice & Text with 100 MB of Data	\$45.00	\$35.00	\$10.00
Unlimited Voice & Text with 500 MB of Data	\$50.00	\$40.00	\$15.00



**Vast Communications**

319 West Fourth Street  
Suite 300  
Cincinnati, OH 45202  
1-800-501-7133

[www.vastphone.com](http://www.vastphone.com)



# Free Mobile Phone and Discounted Wireless Service



**Vast Communications**

Through the government-supported Lifeline program, you may qualify for wireless service for \$5/mo. See inside for details. This is a State of Nevada brochure.

[www.vastphone.com](http://www.vastphone.com)

# Vast Communications' Summary Terms of Service

Complete Terms of Service for Vast Communications' service under the Lifeline program are available at [www.vastphone.com/termsofservice](http://www.vastphone.com/termsofservice). Please note the following:

- Only eligible customers may enroll in the Lifeline program.
- Proof of eligibility is required.
- The Lifeline benefit is limited to one benefit, either wireless OR wireline, per household.\*
- The Lifeline benefit is non-transferable.

For details or to determine if you qualify, call us at 1-800-501-7133. If your Lifeline Plan is not used for sixty (60) days, it will be terminated.



**Vast  
Communications**

[www.vastphone.com](http://www.vastphone.com)  
1-800-501-7133

\*Household is defined as everyone living at a particular address as one economic unit, including children and people not related to you. One economic unit is a group of people who share income and expenses.

You may not use a P.O. Box as your residential address and your address must be confirmed through databases we have employed to validate addresses.

Lifeline is a government benefit program. If you make false statements, written or verbal, during the applications process, you may be subject to a fine or imprisonment, or you may be barred from further participation in the program. Once approved for the Vast Communications' Lifeline service, you must:

- Use your phone at least once in any given sixty (60) day period
- Re-certify your eligibility annually

Failure to comply with either of these requirements will result in termination of your Lifeline service.

You must notify Vast Communications if you become ineligible for the Lifeline program within thirty (30) days of becoming ineligible. You must consent to allow Vast Communications to provide your personal information (including, but not limited to, your name, telephone number and address) to the Federal Communications Commission, the Universal Service Administration Company and/or state government agencies, as well as their administrators and designees, to determine your eligibility, enforce the one benefit per household requirement and for ongoing compliance.



**Vast  
Communications**





***Vast  
Communications***



**Free Phone  
AND  
Unlimited  
Monthly  
Voice & Text  
(as low as \$5/month)**



You may qualify for Lifeline Program service, provided by Vast Communications, if you participate in one or more of a variety of assistance programs.

For more information, please call us at 1-800-501-7133 or visit us online at [www.vastphone.com](http://www.vastphone.com).

Note: Lifeline is a government benefit program. Only eligible consumers may enroll in the program. Proof of eligibility through confirmation using a government database or documentation of eligibility is required. Only one Lifeline Program benefit, either wireless OR wireline, is available per household. Consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or be barred from the program.

**Exhibit C**

**Lifeline Terms and Conditions**

## **Vast Companies, LLC, DBA Vast Communications Terms of Service**

### **Introduction**

Vast Companies, LLC, DBA Vast Communications, is a Lifeline program provider supported by the federal Universal Service Fund program (“Lifeline”). These Terms of Service apply to Vast Communications’ services and mobile phones activated on Vast Communications’ service. Please read these terms carefully.

These Terms of Service become effective by doing any of the following: activating a Vast Communications’ phone or using your Vast Communications’ phone after you make a change to your account. If you do not want to accept these terms, don’t do either of these two things and contact Vast Communications at (800)501-7133. When you accept these Terms of Service, you represent that you are at least 18 years of age and that you meet the eligibility standards for Vast Communications service and Lifeline.

### **Subject to Change**

Our service is provided at our discretion. We may change our Terms of Service, including pricing for paid service options from time-to-time. Unless expressly prohibited by law, we reserve the right to modify or cancel this service or your account or take corrective action at any time and for any reason, including, but not limited to, your violation of any provision of these Terms of Service. Check the Vast Communications website [www.vastphone.com](http://www.vastphone.com), for the most recent pricing and the most recent Terms of Service. Your right to use our service is subject to our business policies, practices and procedures, rates and these Terms of Service, which we may change at any time. Our service, your right to use our service and requirements of you in order to continue service may be impacted by changes in federal or state regulations. We will notify you of any change to these Terms of Service that are determined to be materially adverse to you 30 days in advance of such change. If you do not terminate your service within 30 days of receiving the notice of a change in these Terms of Service, you agree to accept any such changes.

### **Mobile Telecommunications Services**

Vast Companies, LLC provides Vast Communications mobile telecommunications services using a Tier 1 carrier, nationwide network exclusively with Vast Communications phones provided free of charge for Lifeline eligible customers as well as Vast Communications’ phones purchased on a retail basis. You cannot use our service with a locked mobile phone or device and you may not use your Vast Communications’ phone or device with any other service or network. Airtime may be used for domestic calling from the United States and for related services as provided in these Terms of Service.

The Vast Communications service is for personal use only. You may not use our service

in a manner that interferes with another Vast Communications or Vast Companies, LLC customer's use of our service. We have determined that our ability to provide good service may be impaired when customers place abnormally high numbers of calls, send or receive unusually high numbers of messages, or repeatedly place calls of unusually long duration, relative to typical usage by other Vast Communications or Vast Companies, LLC customers on similar service plans. Such atypical usage suggests that a mobile phone may be used other than for personal use in violation of these Terms of Service. Unlimited voice services are provided solely for live dialogue between two individuals. Unlimited voice services may not be used for monitoring services, data transmissions, or other connections that do not consist of uninterrupted live dialogue between two individuals.

You agree not to use Vast Communications services in any way that is illegal, fraudulent or abusive, as determined by Vast Communications in its sole discretion. You may not alter any of the hardware or software on your Vast Communications phone for any purpose. We may change your mobile phone's software, applications or programming remotely and without notice, in order to address software compatibility and other system and/or network issues. We will try to minimize any disruption, but this may affect stored data or other personal information or programming on your mobile phone for which we are not responsible. Customers should maintain a back-up on content on their phone. Vast Communications phones may not be purchased in bulk or sold to third parties.

The software and Data Content on the Vast Communications and Vast Companies, LLC phones, including the operating system, applications, data, information, music, games, images, text and other material, are owned by Vast Companies, LLC or its business partners. You are permitted to use this software and Data Content solely in connection with your use of the Vast Communications' phone with our service as expressly authorized under these Terms of Service. You may not distribute or upload any pre-loaded software or content to another device or transmit or broadcast the software or content, or otherwise copy or use the software or content in any manner not expressly authorized under these Terms of Service or any other governing terms of use relating to any downloaded content or applications. If you violate these Terms of Service, including without limitation by using a Vast Communications' phone or device on another network without our prior written consent by modifying any hardware or software on an Vast Communications' phone or device, or by distributing, copying or otherwise using any of the software or content on an Vast Communications phone in a manner that is not authorized by these Terms of Service or any other governing terms of use relating to any downloaded content or applications, your license to the software and content shall terminate immediately and your continued use will constitute copyright infringement.

Vast Communications' service is only available in geographic areas covered by its national, digital service network footprint and where we have the appropriate federal, state and local approvals. If laws, regulations or requirements change in a particular jurisdiction, we may need to discontinue or change your service. Local phone numbers may not be available in certain markets.

Wireless services use radio transmissions and are therefore affected by interference and other limitations. Coverage is not available everywhere. Quality of service may be affected by conditions beyond our control, including atmospheric, geographic, or topographic conditions, or by damage to your mobile phone. We do not warrant or guarantee that service will be available at any specific time or geographic location, or that service will be provided without interruption. We may give credit for continuous service interruption of more than 24 hours on a case-by-case basis, if such interruption was reasonably within our control, and you notify Vast Communications at (800) 501-7133 within seven days of the interruption. Any statements or maps provided by us, our agents, or dealers about coverage are only intended to provide high-level estimates of our coverage areas when using our service outdoors under optimal conditions and do not mean that service will be available under all circumstances, at all times or without interruption. Estimating wireless coverage and signal strength is not an exact science. There are gaps in coverage within our estimated coverage areas that, along with other factors both within and beyond our control, may result in service interruptions, slower data speeds, or lower quality of service. You should therefore never solely rely on your mobile phone for emergency calls, such as to 911.

Airtime usage is measured from the time the network begins to process the call, which is before the phone rings or the call is answered, and continues through the network's termination of the call, which is after you hang up. Therefore, call time data displayed on your mobile phone may be inaccurate and may not be relied upon for billing, rating or reference purposes.

### **Availability**

Vast Communications is only available for activation by customers who reside in the areas in which Vast Companies, LLC, or in certain cases, an affiliate has been designated as an Eligible Telecommunications Carrier ("ETC") and where Vast Companies, LLC has received regulatory approval. Your principal residence address must be within a Vast Companies, LLC ETC and service area. Visit [www.vastphone.com](http://www.vastphone.com) to check whether you reside in a Vast Companies, LLC ETC service area. To be eligible for Vast Communications' service, you must meet the applicable eligibility standards described below, which may be amended from time-to-time.

### **Eligibility**

Eligibility for Vast Communications' service varies by state. You may qualify for Vast Communications if you participate in any of the government programs listed on your Vast Communications' application or based on household income eligibility standards. Vast Communications is required to validate your eligibility for Lifeline based on accessing a database of eligible residents in your state. If a database does not exist in your state, documented proof will be required from you. If you seek to qualify for Vast Communications based upon participation in a qualifying federal or state program, you are required to provide proof of current program participation such as a benefits statement, a program identification card or other social service agency document that

shows you currently participate in one of the eligibility programs. If you seek to qualify for Vast Communications under the household income eligibility standards, you are required to provide written documentation of your household income. Vast Communications shall retain copies of all such certifications and documentation if required, to furnish proof of your eligibility according to applicable law, program rules and regulations. By completing the Vast Communications application, you consent to the release of your information (including financial information) to our designated agent as required for the administration of your Vast Communications service. You also consent to providing your personal information to government jurisdictions, including administrators, databases and otherwise, on behalf of government agencies. This consent survives the termination of this Agreement. Vast Communications reserves the right to review your eligibility status at any time and require you to provide Vast Communications with written documentation of either your household income or your participation in a qualifying federal or state program. You may only receive Lifeline Assistance for a single landline or wireless telephone account at your principal residence under “one-per-household” rules. If you or any member of your family unit receives Lifeline Assistance from any other telephone company, you are responsible for notifying your current service provider that you have been approved for Lifeline Assistance through Vast Communications. Continued eligibility to receive Vast Communications Lifeline assistance may require that you re-certify your eligibility periodically. For this purpose, it is important that you keep your information on your Vast Communications account current. Please record any updates to your physical address and e-mail address by signing into your account on our website at [www.vastphone.com](http://www.vastphone.com) and selecting “update profile.”

### **Non-Transferable and Non-Assignable**

Your Lifeline service with Vast Communications is specific to you. You may not transfer to any third party any of your rights or benefits received under the Vast Communications’ service, including, but not limited to, any voice minutes received under the Vast Communications’ service. Similarly, you may not assign your rights or delegate any of your duties under these terms without the prior written consent of Vast Communications. Any attempted assignment or delegation without such consent shall be void. Vast Communications may assign all or part of these terms or your debts under these terms without notice.

### **Airtime Rates, Usage, and Included Monthly Minute Allocation.**

While you are enrolled in the Vast Communications Lifeline program, you will receive a free monthly allotment of airtime minutes or service as provided for the Vast Communications’ Program in your state and the service plan that you select. Vast Communications’ airtime is issued in minute increments. There is no additional charge for domestic long distance. Vast Communications offers three plans that are currently available to all new and existing Vast Communications’ customers. Each plan offers different benefits, features and options.

New Vast Communications customers must choose a plan upon enrollment. Existing Vast Communications' customers who wish to switch plans may do so at [www.vastphone.com](http://www.vastphone.com) or by calling (800) 501-7133. Switching plans in the middle of a monthly cycle may cause loss of plan value or benefits. It may be in a customer's best interest to switch at the end of a monthly plan cycle. Use of a wireless phone typically begins when you press the "send," "call" or other key to initiate or answer a call and does not end until you press the "end" key or the call is otherwise terminated. No credit or refund is given for dropped calls.

### **Unlimited Voice Calling and Text Messaging**

Vast Communications subscribers may choose unlimited voice calling and text messaging. Under this plan, all domestic calls and domestic text messaging on Vast Communications' network are free of charge, subject to limitations discussed previously in the Mobile Telecommunications Service section.

### **Unlimited Voice Calling & Text Messaging with 100 MB of Data**

Vast Communications subscribers may choose unlimited voice calling and text messaging with an allotment of 100 megabytes of data. Under this plan, all domestic calls and domestic text messaging on Vast Communications' network are free of charge, subject to limitations discussed previously in the Mobile Telecommunications Service section. Customers will also receive an allotment of 100 megabytes of data. Please be aware of the fact that some applications are "always on" in the background and consume data, even when not actively used. It is your responsibility to read the terms and conditions of any application that you have on your phone and that you understand and take responsibility for the manner and rate at which it consumes available data on your service plan.

### **Unlimited Voice Calling & Text Messaging with 500 MB of Data**

Vast Communications subscribers may choose unlimited voice calling and text messaging with an allotment of 500 megabytes of data. Under this plan, all domestic calls and domestic text messaging on Vast Communications' network are free of charge, subject to limitations discussed previously in the Mobile Telecommunications Service section. Customers will also receive an allotment of 500 megabytes of data. Please be aware of the fact that some applications are "always on" in the background and consume data, even when not actively used. It is your responsibility to read the terms and conditions of any application that you have on your phone and that you understand and take responsibility for the manner and rate at which it consumes available data on your service plan.

## **Account Status**

Your account will remain active as long as you meet the applicable eligibility standards for Vast Communications' service. You are responsible for notifying Vast Communications if you no longer meet the applicable eligibility standards for Vast Communications within five days of becoming aware of your ineligibility by calling Vast Communications at (800) 501-7133 or sending a written notice to Vast Communications, 117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102. In addition, if you receive a notice from Vast Communications requesting that you confirm your eligibility status, you must do so within 30 days after you receive such notice either on the Vast Communications website at [www.vastphone.com](http://www.vastphone.com) or by sending a written notice to Vast Communications, 117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102 along with required proof of eligibility. Since notices may be sent via the US Postal Service or e-mail, it is essential that you keep your information up-to-date. Please record any updates to your physical address and e-mail address by signing into your account on our website at [www.vastphone.com](http://www.vastphone.com) and select "update profile." If you do not use your phone in any given 60 day period, you may be terminated under our non-usage policy and Lifeline program requirements.

If Vast Communications has determined that you are no longer eligible for Vast Communications' Lifeline service either because 1) you have notified us of your ineligibility; 2) you have failed to respond to a request by Vast Communications to confirm your eligibility by the response date; 3) you have responded to a request by Vast Communications to confirm your eligibility, but failed to submit adequate proof of your eligibility status; or 4) Vast Communications learns you are no longer eligible through communication with a state agency, Vast Communications will notify you that you are no longer eligible for Vast Communications service. In addition, if you do not make a voice call at least once during any 60-day period, Vast Communications will notify you that you are no longer eligible for Vast Communications' service. You must confirm eligibility within 30 days following notification of ineligibility in order to have your eligibility restored.

At the end of the applicable 30-day period following notification of ineligibility, you will lose any free monthly minutes remaining in your account and you will no longer receive a monthly allocation of free minutes. For 120 days after the end of this 30-day period, if you have a sufficient balance in your account, you will be charged 10¢ for each additional minute you use. During this 120-day period, you may choose to switch to a Vast Communications' retail plan and keep your phone number by calling (800) 501-7133. After the end of this 120 day-period, your account will expire and we will deactivate your service. If your account expires under this sequence of events, your phone number will be returned to the pool of available numbers, and Vast Communications will assess you a termination charge equal to the value of the balance in your account. You may transfer or port your number to another service, at anytime, by initiating that process with a new service provider.

This program is a regulated service and requires following certain federal and state

requirements. These requirements may change, from time-to-time, which may affect your eligibility or our ability to continue to provide service. Vast Companies, LLC reserves the right to discontinue the service at any time.

### **Payment Methods for Paid Service Options**

For wireless phone usage in addition to your monthly minute allocation and in order to utilize messaging, data and other enhanced services or features, you must add money to the cash balance of your Vast Communications account.

#### **Top-Up**

You add money to the cash balance of your Vast Communications account by using one of our Top-Up methods. You can Top-Up your account by registering your credit/debit card. Vast Companies Top-Up increments are for any whole dollar increment between \$5 and \$100. Sales taxes apply.

The number of days a Vast Communications' Top-Up is valid for is as follows:

\$5 - \$15 - valid for 30 calendar days from the date of activation

\$16 - \$50 - valid for 60 calendar days from the date of activation

Over \$50 - valid for 90 calendar days from the date of activation

Upon the expiration of such period (i.e. 30/60/90 days), any remaining value will expire except that if more value is added before expiration of the period. In this case the expiration on all remaining airtime extends to the expiry date of the new value added.

### **Account History**

Your account history for the previous 60 days will be available online at [www.vastphone.com](http://www.vastphone.com) unless you switch service options, in which case your account history for your new service option will be available online for a period of up to 60 days following the date of your switch. You may request a printed statement detailing 60 days of account history by sending a written request to Vast Communications, 117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102, Attention: Account History.

### **Taxes and Surcharges**

Stated prices for our service options do not include certain taxes or surcharges. Vast Communications charges state and local sales taxes. The amount of these surcharges is subject to change and may vary from time to time and by geographic area. Vast Communications collects sales taxes on all direct Top-Up transactions and, in certain states, regulatory fees. Third party retailers are responsible for collecting sales taxes and in certain states, regulatory fees, for Top-Up transactions that occur through such third party retailers. Taxes and fees are subject to change without notice.

## **Messaging**

You can send and receive text messages of up to 160 characters, including the address and subject line on your Vast Communications phone. There is no character limit for email and instant messages (“IM”). Certain types of messages are device dependent. Standard message rates apply when a message is sent or received, whether it is read or viewed.

### **Preventing Spam**

If you are receiving unwanted text messages (“spam”), contact the source and unsubscribe or remove your mobile phone number from the service. Even if you elect not to receive text messages, you may still receive service alerts from Vast Communications for which there is no charge.

### **Unsolicited Messages**

If you intentionally send spam from your Vast Communications phone, we may terminate your service without further notice.

## **Data Services**

Data Services require that you have a data capable phone. Vast Communications provides wireless data services, for access to the download section of the WAP deck on your mobile phone “Downloads” and mobile Internet services using your Vast Communications phone.

### **Data Usage on Your Vast Communications phone**

You may purchase a service plan which includes data.

Your data usage will be deducted from the available data allocation in your purchased service plan. Unused data expire at the end of your monthly subscription period and may not be used in subsequent months. If you use your allocation of data before the end of the monthly period, you will be charged for data at the rate of \$0.05 for 1,000 kilobytes of data used in order to access the mobile Internet (the “Overage Rate”) on each day that you access the mobile Internet for the remainder of the monthly period, provided you have sufficient balance in your account. If funds are not available in your account, the use of data and access to the internet will be restricted. Unused data purchased at the Overage Rate expire at the end of your monthly period and may not be used in subsequent months. The next month, you will be charged the monthly fee for the service plan that you selected previously.

You may terminate your service or switch to another service plan by logging into your “My Account” page on the Vast Communications website at [www.vastphone.com](http://www.vastphone.com).

### Specific Terms and Restrictions Regarding Data Services

You are responsible for all data activity from and to your mobile phone, regardless of who initiates the activity. You may not use the data service: (1) with server devices or host computer applications, including, but not limited to, Web camera posts or broadcasts, automatic data feeds, automated machine-to-machine (M2M) connections or peer-to-peer (P2P) file sharing or other systems that drive continuous heavy traffic or data sessions; (2) as a substitute or backup for private lines or frame relay connections; (3) with “auto-responders”, “cancel-bots,” or similar automated or manual routines which we determine generate excessive amounts of net traffic, or which disrupt net user groups or email use by others; (4) to send “spam” or unsolicited commercial or bulk email (or activities that have the effect of facilitating unsolicited commercial email or unsolicited bulk email); or (5) for any activity that adversely affects the ability of other people or systems to use either Vast Communications’ or its affiliates wireless services or other parties’ Internet-based resources. Vast Communications reserves the right to limit, suspend or terminate without notice any misuse or use that adversely impacts our network performance or hinders access to our network.

### Data Content

Data services available through Downloads, on your Vast Communications phone may allow you to access the Internet, text, pictures, games, graphics, music, email, sound and other materials (“Data Content”) and send Data Content elsewhere. Some Data Content is available from Vast Companies or its business partners, while other Data Content can be accessed from other third-party websites or services. Data Content may be unsuitable for children/minors, unreliable, inaccurate, offensive, indecent or objectionable. You are solely responsible for evaluating the Data Content accessed by you or anyone using your Vast Communications’ phone or device. We strongly recommend that you monitor Data Content access by children or minors. Prior to accessing certain Data Content that may be inappropriate for children or minors, you may be required to provide some personal information in order to verify that you are at least 18 years of age. Data Content from third parties may also harm your Vast Communications’ phone, device or its software. To protect our network or services, or for any other reason, we may place restrictions on accessing certain Data Content, impose separate charges, limit the amount of data you can access or transfer, or otherwise limit or terminate services.

Your relationship with companies that provide Data Content is between you and them. While Vast Communications supports your use of your Vast Communications’ phone to access Data Content, it specifically **MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, NON-INFRINGEMENT, PERFORMANCE, ACCURACY OR EFFORTS CONCERNING** any other entity or whose services or Data Content you may utilize or otherwise access while using your Vast Communications’ phone. Vast Communications has no control over the Data Content on any third party or partner site that you may access via your Vast Communications’ phone. We strongly recommend that you use good judgment and care in sharing any personal information about yourself while

communicating and interacting with any website. Please do not modify, make, upload or download any Data Content that may violate anyone's intellectual property rights, including copyright laws.

In the event that you lose access to Data Content you have purchased, regardless of the reason for such loss, including without limitation the failure of your mobile phone or computer, Vast Communications may not make such Data Content available to you free of charge.

Vast Communications' rights to license certain Data Content may expire or may be changed, at any time and without notice. In such event, Vast Communications will not extend your rights to such Data Content, and will not provide any reimbursement of any fees or other amounts paid to Vast Communications in connection with such Data Content, although you may contact Vast Communications to request replacement Data Content. Vast Communications will not be required to provide any such replacement Data Content.

### **Account Balances and Charges**

You may check your balance at any time free of charge by visiting our website at [www.vastphone.com](http://www.vastphone.com) or by calling 611 from your mobile phone.

Calls are billed in one-minute increments, with a minimum time per call of one minute. Call times are rounded up to the nearest whole minute. Calls are limited to two hours: if you are on a call for longer than two hours, the call will automatically terminate.

You can switch your number to another Vast Communications' phone number for no additional charge by calling Vast Communications at (800) 501-7133. You are restricted to three such changes per year. You may also purchase another phone, at the full retail price, and have your number transferred to that phone.

Please contact Vast Communications at (800) 501-7133 or visit our website at [www.vastphone.com](http://www.vastphone.com) for additional pricing information or answers to any questions about our services. Calls to Vast Communications may be monitored and recorded for quality assurance.

### **Disputed Charges**

If you think that there has been an error in any charge to your account, you must notify us within 60 days after the charge appears on your account. Call Vast Communications at (800) 501-7133 and one of our advisors will investigate your claim. If you do not notify us within this 60-day period, you waive any right to dispute the charge, including in arbitration or a court proceeding. We will credit, refund or provide other compensation to you if we determine that the disputed charge was inappropriate and was raised by you in a timely manner. If we credit, refund or provide other compensation to you to settle a

disputed charge, you agree that the dispute is fully and finally resolved and not subject to further proceedings. We are not liable for any charges for products or services provided by third parties through and for use on our network, regardless of the date on which you report it. If an unauthorized or disputed charge for a third-party product or service appears on your statement, you must contact that third party directly. Third-party contact information is available on your statement, as well as by calling Vast Communications at (800) 501-7133.

### **Account Suspension Related to Credit Card Chargebacks**

If we have attempted to charge your credit card for a charge that we deem is authorized and valid under these Terms of Service, and the credit card company withholds such payment because the charge has been disputed (a “Chargeback”), we reserve the right to suspend your access to our service for up to 30 days until the Chargeback is reversed. If the Chargeback is not resolved and reversed, your account will be deactivated at the end of the 30-day period and Vast Communications will assess you a termination charge equal to the balance in your account, which is not refundable even if you reactivate your account. If your account is reactivated, you may be charged a fee for each Chargeback. If there are multiple Chargebacks associated with your account or we suspect or confirm any fraudulent activity in connection with your payments, we may, without limiting any other rights available to us, elect in our sole discretion to require you to add money to the cash balance of your Vast Communications’ account solely by means of PIN codes.

### **Refunds and Returns**

All Top-Up and account replenishment sales are final and non-refundable regardless of who uses or possesses your mobile phone after you buy airtime or otherwise put value on your account, and regardless of whether the mobile phone is used with your consent or knowledge. Monthly charges are non-refundable.

### **Returning Your Vast Communications Phone:**

A defective Vast Communications phone may be returned within 14 calendar days from the date in which the phone was received. All equipment must be complete and returned in the original packaging and in good condition to be eligible for a comparable replacement. Please contact Customer Care to obtain a Return Authorization Number at (800) 501-7133. This return authorization number must appear on the outside of the shipping package for your return to be processed correctly.

Vast Companies, LLC  
Attn: Returns Manager  
Return Authorization Number \_\_\_\_\_  
117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102

Include your name, address, home phone number and return authorization number on the

original packing list.

### **Returning a Vast Companies Phone:**

A Vast Companies phone purchased online at [www.vastphone.com](http://www.vastphone.com) may be returned within 14 calendar days from the date that the equipment was received. All equipment must be complete and returned in the original packaging and in good condition to be eligible for a refund of the purchase price. All unused airtime purchased online with a handset will be refunded. Please contact Customer Care to obtain a return authorization number at (800) 501-7133. This return authorization number must appear on the outside of the shipping package and on the receipt for your return to be processed correctly.

Vast Companies, LLC

Attn: Returns Manager

Return Authorization Number \_\_\_\_\_

117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102

Include your name, address, home phone number and return authorization number on the original packing list. The credit card used at the time of purchase will be credited 10-15 days after the returned handset is received.

Equipment purchased online beyond 14 days from the date that the equipment is received is not refundable.

All mobile phones purchased at a retail location, online at [www.vastphone.com](http://www.vastphone.com), or provided to you through our Lifeline program include a one-year warranty from the original equipment manufacturer or, in the case of refurbished handsets, us. If you experience a handset malfunction, call Vast Communications at (800) 501-7133. Defects due to misuse or abuse are not covered under any warranty.

### **Lost or Stolen Equipment**

If your mobile phone is lost or stolen, you are responsible for charges incurred until you notify us of the loss of your mobile phone by visiting our website at [www.vastphone.com](http://www.vastphone.com) or by calling Vast Communications at (800) 501-7133. Upon receiving notice that your mobile phone is lost or stolen, Vast Communications will suspend your account. If you do not either activate a new Vast Communications' phone or notify us that you have found your old mobile phone within 60 days of the suspension of your account, your account will be deactivated, your phone number will be returned to the pool of available numbers and Vast Communications will assess you a termination charge equal to the balance in your account, which is not refundable even if you reactivate your account. To avoid loss of phone number, please secure a new Vast Communications' phone or initiate new service with another provider and transfer or port your number to that new provider. Porting can be initiated with the new provider.

### **Mobile Phone Number**

The mobile phone number we provide for your use is assigned to your Vast Communications' phone. We may return your mobile phone number to the pool of available numbers without telling you if you cancel your service with Vast Communications in order to use another mobile service (unless you transfer or port the mobile phone number to another telecommunications provider in accordance with applicable regulations), or if your account expires and is deactivated. To avoid loss of such number, please initiate the port through the other provider. We may also change your mobile phone number at any time, although we will notify you prior to any change. You can request to change your mobile phone number up to three times each year. Any request beyond that will incur a \$5 processing fee for each additional request.

### **Keeping Your Old Mobile Phone Number**

Depending on where you live, you may transfer an existing wireless or wireline carrier telephone number to your Vast Communications service for use as your mobile phone number. To switch an existing phone number to Vast Communications, contact Vast Communications at (800) 501-7133. Before you call, please have a bill from your existing wireless or wireline carrier available. When you switch from another wireless carrier to Vast Communications, you may have to pay a termination penalty to your former carrier if you terminate your contract early. Vast Communications will not reimburse you for any termination fees imposed by other carriers. You will not be able to switch your area code without receiving a new local number from Vast Communications as well.

### **Acceptable Use of Vast Communications Products and Services**

You may not use Vast Communications' service for any illegal purpose, including to harass, threaten, abuse, defame, or slander any individual or entity. You may not use our service in a manner that interferes with another Vast Communications' or Vast Companies, LLC's customer's use of our service. You may not use, or attempt to use, Vast Communications' service for profit or any other gain, including, but not limited to, selling, attempting to sell, or in any way transferring to a third party any service from Vast Communications.

Vast Communications and its business partners provide messages, data, information, music, games, images, text or other material for your private, non-commercial use only. You may not sell or resell this Data Content. You may not upload and transmit or broadcast this Data Content in public places. These uses are expressly prohibited by Vast Companies, LLC. You will be solely responsible if you engage in any unauthorized use of this Data Content.

### **Content Objectionable or Offensive to Third Parties**

You may not publish, copy, reproduce, upload, download, post, distribute, edit, modify, or otherwise transmit ("post") any content that is unlawful, libelous, defamatory,

slanderous, obscene, pornographic, harassing, threatening, abusive, harmful, or otherwise objectionable, or that infringes upon or otherwise violates others' rights, including privacy rights.

#### Unlawful Content

You may not post any content that encourages or is in furtherance of an unlawful, criminal, or fraudulent activity or that violates any Vast Communications rule or policy.

#### Soliciting Information

You may not post any content that solicits any information from other customers or involves any commercial activities, including advertisements.

#### Infringing Content

You may not post any content that may infringe on or otherwise violate any patent, trademark, trade secret, copyright, or other intellectual property or proprietary right of any person. Infringement may result from the unauthorized copying, posting, editing, modifying or distributing of any content, including ringtones, graphics, pictures, photographs, logos, software, articles, music, games, or videos. By posting any content, you represent that you have legal rights to use, distribute and publish such content.

#### Harmful Content

You agree not to post any content that contains viruses, worms, time bombs or other similar programs that would interfere with or disrupt our provision of services.

#### Removal of Objectionable Content

We reserve the right, in our sole discretion, to remove or delete any content that you post on our service that violates these Terms of Service or is otherwise deemed objectionable by us in our sole discretion. We may delete content that you have downloaded to your personal vault or limit the amount of content that you may download during any given period.

#### Suspension or Termination of Service

We reserve the right to issue a warning and to suspend or terminate your access to the [www.vastphone.com](http://www.vastphone.com) website, any other website we operate, or to our service at any time should we determine in our sole discretion that you have violated these Terms of Service or any other rule or policy of Vast Communications, or for any other reason in our sole discretion.

#### Storage of Content

Some content may not be stored or processed because of memory or size limitations. You agree that Vast Communications is not liable for the deletion of or failure to store content, and, in compliance with these terms, you should store photographs and other information permanently by using another means, storing on another external medium or device such as a CD-R or personal computer. Content may expire within 60 days of its original download or use unless you otherwise request its retention and/or preservation. A password may be required to use Downloads or to access the contents of your personal

downloads. Use of Downloads requires the use of a compatible mobile phone or other device and is subject to certain functionality limitations such as memory, processor speed, and graphics capability. Not all applications will work on all Vast Communications' phones and equipment, and some applications may not be available in all areas. Use of certain downloaded applications may require the disclosure of personal information subject to the policies of the companies that offer such applications. We also disclose to third parties any content necessary to respond to claims that such content violates the rights of third parties or to protect the rights and property of Vast Communications.

### **Location-Based Services**

Location-based information is information that indicates the location of your Vast Communications' phone. When you turn on your mobile phone, your device automatically communicates with our network and relays its current location unless you have turned off your handset's location functionality. The accuracy of location-based services may be affected by circumstances beyond our control, including atmospheric, geographic or topographic conditions. We do not warrant or guarantee that location-based services will be available at any specific time or geographic location, or that service will be provided without interruption.

By using our location-based services, you consent to have us electronically collect, monitor and track your physical location and the location of your mobile phone. We collect and disclose your location information only to provide you with the location-based services you have requested, or in emergency situations as prescribed by law. If you allow others to use your Vast Communications' phone, you are responsible for informing these users that their location information may be collected or disclosed. We will not provide your location information to third parties without your consent other than as prescribed by law.

If you wish to change your privacy options for the use of your location information, or if you no longer wish to use our location-based services, please change the settings on your mobile phone by going either to (1) Menu > Settings > Network > Location or (2) Menu > Tools&Settings > Others > Location, depending on your mobile phone. Changing your privacy options or terminating our location-based services will not affect the status of any other services you receive from us. Any information that is collected, monitored or tracked regarding your physical location or the location of your mobile phone will not be retained longer than is necessary to provide the location-based services you have selected. For further information regarding your privacy options in connection with your use of Vast Communications services go to <http://www.vastphone.com/privacy-policy>.

### **Vast Communications' Website**

You may use our website located at [www.vastphone.com](http://www.vastphone.com) to manage your account, make payments, view our content and learn more about our products and services. Any use of

the Vast Communications' website is subject to the terms set forth in the Terms of Website Use and Privacy Policy, which are available on our website at [www.vastphone.com](http://www.vastphone.com).

### **Teletype (“TTY”) Access**

For information concerning TTY access for the hearing-impaired, please contact Vast Communications at (800) 501-7133.

### **Pay-Per-Call Services**

Vast Communications will not directly complete any calls to 1-900, 1-976 or other pay-per-call services.

### **Safety and Security**

Vast Communications is not responsible for the content or security of voicemail, messages or contact lists you create. We urge you to create a password to access your voicemail.

Always use your device in a safe manner that does not create a risk to your safety or the safety of others around you. While driving, always use a hands-free device and never use your mobile phone to send text messages. Always use your Vast Communications' phone in accordance with all applicable laws and regulations.

### **Use of Your Customer Information**

When you agree to these Terms of Service, you also agree to the terms of our Privacy Policy (available at [www.vastphone.com](http://www.vastphone.com)). This policy may change from time to time and includes important information on what data we collect about you, how we use this data and with whom we share that data.

In the course of providing service to you, we may collect certain information made available to us solely because of our relationship with you, including information regarding the nature and type of your service and the calls that you place and receive. We always will handle this data, “Customer Proprietary Network Information” (“CPNI”) in accordance with Federal Communications Commission regulations, federal consumer privacy laws and the Vast Communications Privacy Policy. We take reasonable steps to protect CPNI and your other personal information from unauthorized use or disclosure. Except as contemplated by the Privacy Policy, we will not intentionally share your personal information without your permission. We may, from time-to-time, use the information you provide us to market services to you that may be related to our service offerings.

To comply with appropriate legal process, Vast Communications may disclose to law

enforcement authorities and governmental agencies any information, including your name, account history, account information, or other transmission data properly requested by law enforcement.

### **Dispute Resolution**

Vast Communications and you each agree to contact each other first with any disputes. You must contact us with any dispute by calling Vast Communications at (800) 501-7133 or writing us at Vast Communications, 117 Park Avenue, Fourth Floor, Oklahoma City, Oklahoma 73102, Attn. Executive Escalations, and providing a description of the problem, all relevant documents/information and the proposed resolution. We will contact you at the last address that you have provided us or on your mobile phone. We each agree to negotiate in good faith to resolve any dispute. You agree to pay all amounts reflected on your account statement, even while a dispute is being resolved.

### **No Trial by Jury**

To the extent permitted by law, if a claim proceeds in court, we each also waive any right that we may have to trial by jury in any lawsuit or other proceeding.

### **Limitation of Liability**

Unless prohibited by law, Vast Communications and you agree to limit claims for damages or other monetary relief against each other to direct and actual damages. You agree that Vast Communications and its business partners are not liable to you or any third party for any indirect, special, incidental, consequential, exemplary or punitive damages of any kind, including lost profits (regardless of whether we have been notified that such loss may occur) by reason of any act or omission in our provision of products or services or under any legal theory, including fraud, misrepresentation, breach of contract, personal injury, product liability or any other theory. Vast Communications assumes no risk or responsibility for your use of any of the content provided as part of our services. We are not liable for (1) any act or omission of any other company furnishing a part of our service or any equipment provided for such service, (2) errors or omissions of any vendors participating in offers made through us, (3) any damages that result from any product or service provided by or manufactured by third parties, or (4) any unauthorized or disputed charges for Vast Communications' services that appeared more than 15 days earlier on your online account statement and which you did not properly dispute within 15 days after the charge was posted to your account. You acknowledge that no fiduciary or other special relationship exists between you and Vast Communications', by virtue of these Terms of Service or your use of Vast Communications' phones and services. You also agree we are not liable for missed voice mails, deletion of contacts from you address book, or data content or messages from your voicemail system.

### **Indemnification**

You agree to indemnify and hold harmless Vast Communications and its affiliates and

their respective officers, agents, partners and employees, from any and all liabilities, settlements, penalties, claims, causes of action and demands brought by third parties (including any costs, expenses or attorneys' fees on account thereof) resulting from your use of Vast Communications' products and services, or another person whom you authorize to use your products or services, whether based in contract or tort (including strict liability) and regardless of the form of action.

### **Warranties**

We do not manufacture our mobile phones or other equipment. The only warranties applicable to such devices or equipment are those extended by the manufacturers. We have no liability, therefore, in connection with mobile phones and other equipment or for manufacturers' acts or omissions.

WE MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND SERVICES PROVIDED HEREUNDER OR ANY SOFTWARE REQUIRED TO BE USED IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO, AND TO THE EXTENT PERMITTED BY LAW, WARRANTY OF TITLE, WARRANTY THAT A PRODUCT OR SERVICE IS FIT FOR A PARTICULAR USE OR WARRANTY OF MERCHANTABILITY. WE EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES. WE DON'T PROMISE ERROR-FREE OR UNINTERRUPTED SERVICE AND DON'T AUTHORIZE ANYONE TO MAKE WARRANTIES ON OUR BEHALF.

### **Effect of Terms of Service**

These Terms of Service supersede all oral or written communications and understandings between you and Vast Communications with respect to our products and services to you and the terms under which they are offered and provided to you. If any part of these Terms of Service is declared invalid or unenforceable, all other parts of these Terms of Service are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of these Terms of Service. No provision of these Terms of Service provides any person or entity not a party to these Terms of Service with any remedy, claim, liability, reimbursement, or cause of action, or creates any other third-party beneficiary rights.

Unless otherwise specified herein, any disputes of a legal nature, whether a claim, complaint, arbitration demand or otherwise, shall be subject to the exclusive jurisdiction of the federal or state courts located within the State of Oklahoma, except in the case of a customer resident in the State of California, in which case such disputes shall be within the exclusive jurisdiction of the federal or state courts of or in the California county in which the customer primarily uses Vast Communications' service.

### **Notices**

You may notify us by mail (Vast Communications, 117 Park Avenue, Fourth Floor,

Oklahoma City, Oklahoma 73102), phone ((800) 501-7133) or electronic means via our website at [www.vastphone.com](http://www.vastphone.com). Notices will be considered effective after we receive them. If you are unable to resolve your concerns with Vast Communications, you may file a complaint with the Federal Communications Commission, Washington, DC 20554. Any notice we send you will be sent to your last known residence or electronic address as shown on our records, or via text message to your Vast Communications phone.

### **Export**

You agree to comply with all trade regulations and export control laws, both domestic and foreign. Vast Communications phones, equipment, software, and any underlying information accessed or transferred by you using our services may be subject to U.S. export controls, including the Export Administration Act (50 U.S.C. § 2401, et seq.) and the Export Administration Regulations (50 C.F.R. § 730-774), as well as the import regulations of other countries. You agree not to export or re-export any Vast Communications phones, equipment, or software to any foreign country. Any information transferred by you using Vast Communications' services to any foreign country, entity, or person must comply with the U.S. Export Administration Act and the Export Administration Regulations.

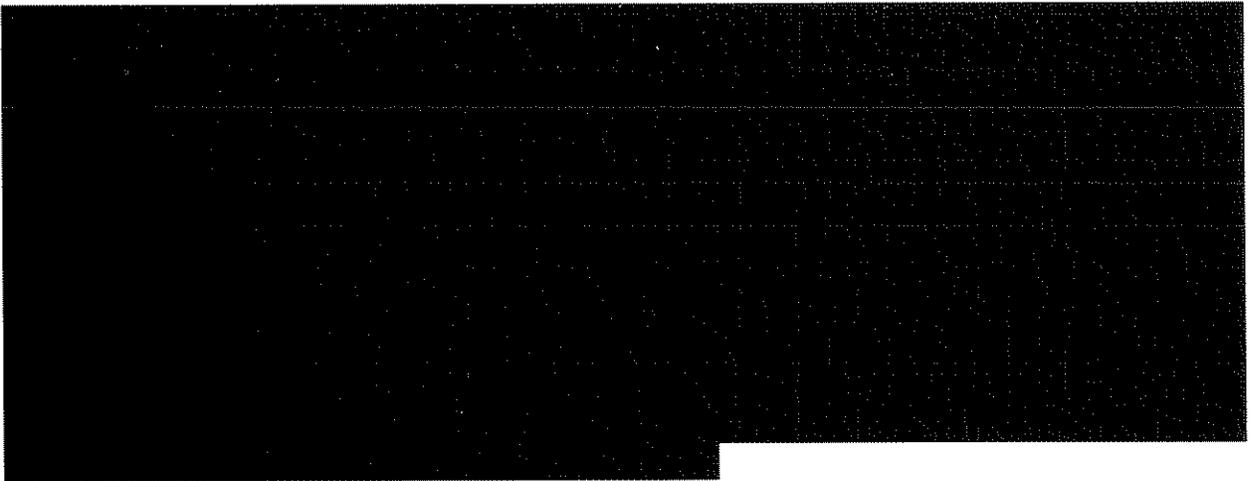
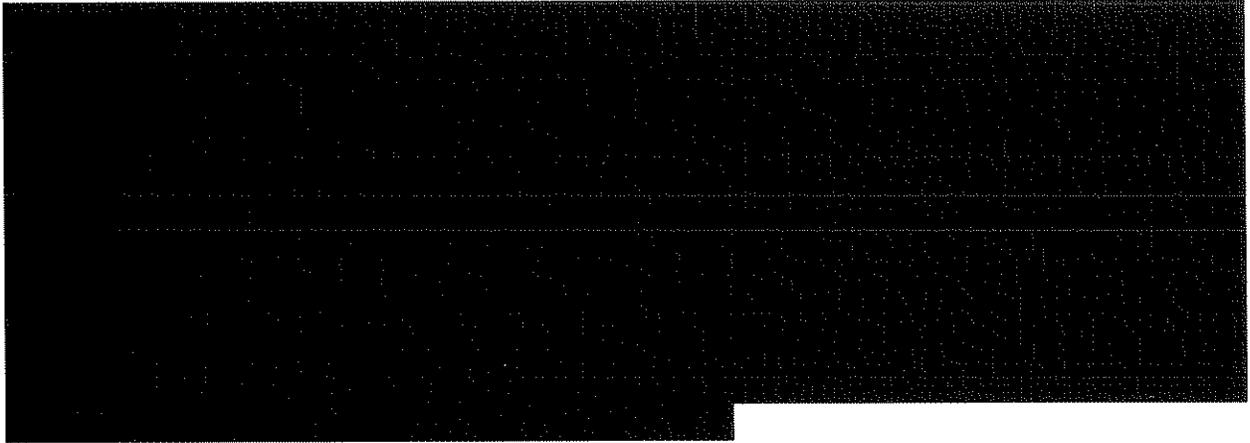
### **Trademarks and Licenses**

The Vast Companies, LLC's brands and family of marks are registered trademarks used under license by Vast Companies, LLC. You agree not to infringe, misappropriate or otherwise violate the intellectual property rights of Vast Companies, LLC, its vendor partners or its underlying carrier. You agree that a violation of this paragraph causes harm that cannot be fully redressed by monetary damages, and that in the event of such violation or threatened violation, Vast Companies, LLC is entitled to immediate injunctive relief, without posting a bond or additional security, in addition to all other rights and remedies available.

**Exhibit D**  
**Outreach Plan**

**CONFIDENTIAL AND PROPRIETARY**

**Vast Companies, LLC dba Vast Communications  
Outreach Plan**



**Exhibit E**

**Company Affiliates**

**CONFIDENTIAL AND PROPRIETARY**

**Vast Companies, LLC dba Vast Communications**  
**List of Affiliates**

Affiliate (industry)



## **Exhibit F**

### **Key Management Profiles**

#### **Stephen A. Sherman – President**

Steve received a Bachelor's Degree from the University of Michigan, where he graduated with high distinction, and both JD and MBA Degrees from the University of Santa Clara. Steve has been a practicing attorney in Oklahoma City for over 30 years, with a focus on real estate and business matters. His clientele includes many of the largest and most active local, and national, real estate companies, including brokers, management companies, developers, and “mom and pops” in real estate and related businesses. Steve spent the first 10 years plus of his law practice in litigation activities, both at the state and federal court levels, prior to focusing on real estate and business matters.

Over the years Steve has served on numerous boards of profit and not-for-profit/civic organizations, and has owned and operated various businesses in the oil and gas, farming, and commercial and residential real estate fields.

Steve has been a Real Estate Commissioner at the Oklahoma Real Estate Commission since 2003, serving as its Chairman during 2011 – 2012. Additionally, Steve has served for over 15 years as the Associate Municipal Judge in Nichols Hills, Oklahoma, a small incorporated township surrounded by Oklahoma City.

Steve will provide a solid foundation for the Vast Companies, its endeavors in the challenging and ever changing telephone industry, and the coordination of the first-class management team and third party providers assembled by Vast.

## **Patrick McDonough – Vice President of Operations**

Pat's professional background includes extensive experience in the telecommunications and financial services industries.

Before joining Vast Companies as its Director of Operations, Pat was managing partner in a consulting firm (Howard Roark Consulting), specializing in the telecommunications industry. In that capacity, he built new wireless operations and established Lifeline programs for clients. Pat took a senior management position with one of Howard Roark Consulting's largest clients, i-wireless. During his tenure at i-wireless, Pat held positions as General Manager of its Lifeline division, Access Wireless, Chief Operating Officer and Chief Financial Officer. Pat worked with i-wireless since it was formed in 2005, helping to build it from the ground up. Pat left i-wireless in June of 2011.

Prior to starting Howard Roark Consulting, Pat worked at regional carrier Cincinnati Bell from 1999 to 2005, serving as Controller and then Chief Financial Officer of its wireless division as well as Director of Financial Planning and Analysis for the entire \$1.2 billion organization. In this role, he helped lead dramatic growth and engineered the launch of new markets and new products.

Prior to working in the telecommunications industry, Pat worked for 10 years in the financial services industry, most recently as Vice President and Controller of a \$2.5 billion financial services company.

With over 20 years of management expertise, Pat is a well-respected professional with a proven track record of driving business results and leading organizations to substantial growth.

## **Regan Williams, CPA, MBA – Vice President of Finance & Accounting**

During college, Regan worked in and ran a successful family business. Since becoming a certified public accountant in 1997, Ms. Williams has worked both in public and private accounting. She has had the opportunity to work in and advise clients from a wide variety of business sectors including those from the oil and gas, legal, multi-state retail operations, telecommunications, marketing, and advertising industries. This experience has been instrumental in refining the skills needed to run and manage businesses while analyzing opportunities for growth and improvement. Regan earned a professional reputation for efficiency, competence, and a commitment to her clients and the dedication to resolve problems.

Regan enjoys challenges and gains satisfaction in a job well done. She is very detailed oriented, which is ideal for ensuring compliance with regulatory requirements. She has a strong interest in community and family and looks for opportunities to give back through missions and outreach.

## **Wilma Journeycake Rickey – Vice President of Sales & Marketing**

As a legal professional, Wilma has been responsible for all aspects of business operations, employee management, and client interaction at the same law firm for the past 12 years. Wilma has jointly managed and supervised others in the firm's general accounting functions including invoicing and billing, personnel, and maintenance and processing of client records and files.

Wilma has provided legal assistance in numerous types of transactions, including those involving the acquisition, sale and leasing of hundreds of real properties in both Oklahoma and across the nation, including office buildings, shopping centers and commercial and residential subdivisions. This experience will serve Vast Communications well as we seek commercial locations to serve both retail and Lifeline customers.

Wilma has a reputation for unparalleled organizational skills, is detail oriented and has demonstrated a commitment to excellence. She has the proven ability to accomplish any and all tasks in a fast-paced environment, through advanced multi-tasking abilities, with precision and efficiency. Wilma has been instrumental in the growth and success of various business endeavors, including the law firm where she currently is employed. Wilma has built relationships within the Tribal community, both locally and nationally, including a former Director of the Bureau of Indian Affairs.

## Exhibit G

### Proposed Service Offering

Vast Communications' Lifeline offering proposes to give eligible customers the following Lifeline Plan choices, outlined in the table below. These plans are intended to meet customers' unique communication needs and grow with them as their needs change (including from Lifeline subsidized plans to retail plans when their circumstances change).

Rate Plans	Retail	Non-Tribal Lifeline	Tribal Lifeline
Unlimited Voice & Text	\$40.00	\$30.00	\$5.00
Unlimited Voice & Text with 100 MB Data	\$45.00	\$35.00	\$10.00
Unlimited Voice & Text with 500 MB Data	\$50.00	\$40.00	\$15.00

#### **Unlimited Voice & Text\***

Unlimited anytime minutes and texting per month

Net cost to Lifeline customer:

**\$30 for Non-Tribal Lifeline eligible customers;**

**\$5 for Tribal Lifeline eligible customers**

#### **Unlimited Voice & Text with 100MB of Data\***

Unlimited anytime minutes and texting and 100MB of data usage per month

Net cost to Lifeline customer:

**\$35 for Non-Tribal eligible Lifeline customers;**

**\$10 for Tribal Lifeline eligible customers**

#### **Unlimited Voice & Text with 500MB of Data\***

Unlimited anytime minutes and texting and 500 MB of data usage per month

Net cost to Lifeline customer:

**\$40 for Non-Tribal Lifeline eligible customers;**

**\$15 for Tribal Lifeline eligible customers**

#### **Any additional usage is priced at:**

- 5 cents per 1,000 Kilobytes (KB) of data

#### **\*All service package options include:**

- A free handset
- Free calls to 911 emergency services
- Free calls to Customer Service
- Free balance inquiries
- Free Voicemail, Caller ID and Call Waiting
- Free Directory Assistance (411) calling
- Free Domestic Long Distance